

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

In re:)	
)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION,¹)	Case No. 09-12074 (KJC)
)	
Reorganized Debtor.)	Ref. Docket Nos. 956 and 1931
)	

**CERTIFICATION OF COUNSEL REGARDING STIPULATION
RESOLVING THE REQUEST OF ARCADIA HOMES, INC. *et al.*
FOR RELIEF FROM THE PLAN INJUNCTION**

On November 19, 2009, the Court entered that certain 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”). In accordance with the Procedures Order, on August 29, 2011, the Reorganized Debtor filed that certain *Notice of Stipulation Resolving the Request of Arcadia Homes Inc. et al. for Relief from the Plan Injunction* [Docket No. 1931] (the “Notice”) with respect to that certain Stipulation Resolving the Request of Arcadia Homes Inc. *et al.* for Relief from the Plan Injunction (the “Stipulation”).² Pursuant to the Procedures Order, the objection deadline for the Notice and the Stipulation was September 13, 2011 at 4:00 p.m. (ET).

¹ The Reorganized Debtor in this proceeding, along with the last four digits of its tax identification number, is as follows: Building Materials Holding Corporation (4269), with a mailing address of 720 Park Boulevard, Suite 200, Boise, Idaho 83712. On June 16, 2009, the following affiliates of the Reorganized Debtor also filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code: BMC West Corporation; SelectBuild Construction, Inc.; SelectBuild Northern California, Inc.; Illinois Framing, Inc.; C Construction, Inc.; TWF Construction, Inc.; H.N.R. Framing Systems, Inc.; SelectBuild Southern California, Inc.; SelectBuild Nevada, Inc.; SelectBuild Arizona, LLC; and SelectBuild Illinois (collectively, the “Subsidiary Debtors”). On June 28, 2011, the Court entered that certain Final Decree Closing Subsidiary Cases and Amending Caption of Remaining Case [Docket No. 1896], thereby closing the chapter 11 cases of the Subsidiary Debtors and ordering that all motions, contested matters, and adversary proceedings that remained open as of the date thereof, or that are opened thereafter, with respect to the Reorganized Debtor and the Subsidiary Debtors shall be administered under the Reorganized Debtor’s 11 chapter case.

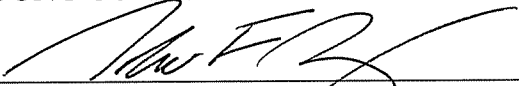
² To the extent there is any inconsistency between the summary provided herein and the actual terms and conditions of

Arcadia Homes, Inc., Arcadia Development Co., Inc., and Arcadia Paradise Valley, LLC, defined as the "Claimant" in the Stipulation, tendered defense and indemnification in that certain lawsuit filed in the State of California, Solano County Superior Court, Case No. FCS 032594, referred to as *Booker vs. Arcadia Homes, Inc. et al.* (the "Action"), against KBI Norcal, a/k/a SelectBuild Northern California, Inc. ("KBI"), one of the Subsidiary Debtors, regarding alleged construction defects in numerous single family homes located in a certain project commonly referred to as The Masters Collection at Paradise Valley. Under the Stipulation, the Claimant will be permitted to prosecute and/or settle this claim against KBI in the Action so long as it limits any recovery to applicable insurance proceeds from the Policies and the Reorganized Debtor has no payment obligations for the applicable self-insured retention.

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. Attached hereto as Exhibit 1 is a proposed form of order (the "Proposed Order") approving the Stipulation. The Reorganized Debtor respectfully requests the Court to enter the Proposed Order without further notice or a hearing at the earliest convenience of the Court.

Dated: Wilmington, Delaware
September 16, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)
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---- and ----

ascribed to such terms in the Stipulation.

SACKS TIERNEY P.A.
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4250 North Drinkwater Blvd., Fourth Floor
Scottsdale, Arizona 85251
Telephone: (480) 425-2676
Facsimile: (480) 425-4976

ATTORNEYS FOR THE REORGANIZED DEBTOR

EXHIBIT 1

Order

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

In re:)	
)	Chapter 11
)	
BUILDING MATERIALS HOLDING CORPORATION,¹)	Case No. 09-12074 (KJC)
)	
Reorganized Debtor.)	Ref. Docket Nos. 956, 1931 and _____
)	

**ORDER APPROVING STIPULATION
RESOLVING THE REQUEST OF ARCADIA HOMES, INC. *et al.*
FOR RELIEF FROM THE PLAN INJUNCTION**

Upon consideration of the *Certification of Counsel Regarding Stipulation Resolving the Request of Arcadia Homes Inc. et al. for Relief from the Plan Injunction* (the "Certification of Counsel");² and the Court having found, based on the statements made in the Certification of Counsel, that notice of the Stipulation was provided in accordance with the Procedures Order; 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, and the terms and conditions of the Stipulation are incorporated into this Order by reference as if fully set forth herein.

¹ The Reorganized Debtor in this proceeding, along with the last four digits of its tax identification number, is as follows: Building Materials Holding Corporation (4269), with a mailing address of 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Certification of Counsel.

2. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: September ____, 2011
Wilmington, Delaware

Kevin J. Carey
United States Bankruptcy Judge

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 ARCADIA HOMES, INC.
et al. FOR RELIEF FROM THE PLAN INJUNCTION**

Arcadia Homes, Inc., Arcadia Development Co., Inc., and Arcadia Paradise Valley, LLC (collectively "*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;

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 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**"). 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 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") prevents persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims;

WHEREAS, on June 16, 2011, the Claimant requested that Debtor stipulate to lift the Automatic Stay and Plan Injunction to allow Claimant to proceed against certain insurance proceeds which may be recoverable by the Claimant as a result of that certain State Court action in California identified as *Booker vs. Arcadia Homes, Inc., et al*, Solano County Superior Court, Case Number FCS032594 (the "**Action**");

WHEREAS, the Claimant asserts it is entitled to recover from the following insurance policies, with respect to the claims alleged in the Action: American Safety Insurance (the "**Insurer**"), Policy Nos.: XGI 03-3205-001 and XGI 03-3205-002 and Policy Terms: June 21, 2002 through June 21, 2003 and June 21, 2003 through November 11, 2003 (the "**Policies**");

WHEREAS, the Debtors are willing to stipulate to relief from the automatic stay and Plan Injunction 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 Policies, with certain

conditions as provided below to protect the Debtor from administrative expense, given the uncertainty surrounding the provisions of the Policies;

WHEREAS, the Insurer and the Claimant have reached an agreement regarding the satisfaction of the Policies' self-insured retentions such that Debtors will have no liability for payment of same.

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 Plan Injunction 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 Policies.
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 Policies.
3. The Claimant acknowledges and agrees that the Debtors are making no representations concerning the availability of insurance under the Policy and that the Insurer has all available defenses under the Policy, including with respect to defenses, if any, that arise as the result of the Debtors entering into this stipulation with the Claimant. The Claimant further acknowledges and agrees that the Debtors retain all defenses they may have with respect to the Action.
4. 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.

5. 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.

6. 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.

7. 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.

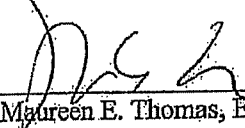
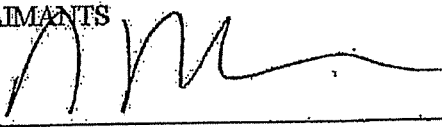
8. It is acknowledged that each Party has participated in and jointly consented to the drafting of this Stipulation and that any claimed ambiguity shall not be construed for or against either Party on account of such drafting.

9. 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.

10. 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.

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

<p>For DEBTORS</p>  <hr/> <p>Maureen E. Thomas, Esq. Building Materials Holding Corporation 9832 Coledale Court White Lake, MI 48386 Telephone: 248-698-0965</p> <p>Dated: <u>8-26-11</u></p>	<p>For CLAIMANTS</p>  <hr/> <p>Ronald Van, Esq. Arcadia Homes, Inc., Arcadia Development Co., Inc., and Arcadia Paradise Valley, LLC Chapman Glucksman Dean Roeb & Barger 11900 W. Olympic Boulevard Suite 800 Los Angeles, California 90064 Telephone: 310-207-7722</p> <p>Dated: <u>8/25/11</u></p>
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