

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

FILED

2020 JUL 31 PM 12:43

IN RE:

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

Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

Ref. Docket Nos. 17 and _____

CLERK
U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

VERIFIED STATEMENTS OF CONNECTIONS

I, Ronald E. Zimmerman, declare under penalty of perjury:

- 1) I am a Real Estate Agent of Bourn Partners, LLC, located at 3915 E. Broadway Blvd 4th Floor, Tucson, Arizona 85711 (the "*Firm*").
- 2) Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "*Debtors*") have requested that the Firm provide Real Estate Brokerage Services and Consulting to the Debtors, and the Firm has consented to provide such services.
- 3) The Firm may have performed services in the past, may currently perform services and may perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in interest in these chapter 11 cases. The Firm does not perform services for any such person in connection with these chapter 11 cases, or have any relationship with any such person, their attorneys or accountants that would be adverse to the Debtors or their

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.

estates. Furthermore, the Firm is a "disinterested person" under 11 U.S.C. § 101(14), such that the Firm:

- (a) is not a creditor (as explained below), an equity security holder, or an insider of any of the Debtors;
- (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of any of the Debtors; and
- (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

4) As part of its customary practice, the Firm is retained to provide real estate brokerage services in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors, claimants, and parties-in-interest in the Debtors' chapter 11 cases.

5) Neither I nor any principal, partner, director, officer, etc. of, or professional employed by, the Firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Firm.

6) As a real estate brokerage firm, the Firm does not maintain a list of former clients. To the best of my knowledge, the Firm does not have any relationship with any of the Debtors.

7) Neither I nor **Bourn Partners, LLC's principal, partner, director, officer, etc.** of or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which this Firm is to be employed. Furthermore, neither I nor **Bourn Partners, LLC's principal, partner, director, officer, etc.** of or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors.

8) The Firm will continue to review its retention by any creditors of the Debtors, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this Declaration.

9) The Debtors owe the Firm \$5,000.00 for prepetition services, the payment of which is subject to limitations contained in the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532. If the Firm is either (i) not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, my signature below acknowledges that the Firm understands that any and all pre-petition claims that it has against the Debtors will be deemed waived if the Firm's employment is authorized.

10) As of June 16, 2009, which was the date on which the Debtors commenced these chapter 11 cases, the Firm was party to an engagement or services agreement with the Debtors. **A copy of such agreement is attached as *Exhibit A* to this Declaration.**

11) As of June 16, 2009, Debtor had agreed, in the agreement attached as Exhibit A, to indemnify and hold the Firm harmless from any and all claims, demands, liabilities and damages arising from any incorrect information supplied by Debtor as Owner or any information which Debtor as Owner fails to supply, pursuant to the Debtor/Owner's actual knowledge. See page 2 of the agreement attached.


12) The following is a list of all payments which the Firm received from the Debtors during the year prior to the Debtors' bankruptcy filings:²

² The Debtors recommend (and the U.S. Trustee requests) that the Firm organize payments in the following columns: invoice date, invoice amount, date(s) of service covered by invoice, payment date and payment amount. Retainers and draws on retainers should be specifically noted as such.

Invoice Date	Invoice Amount	Date(s) of Service Covered by Invoice	Payment Date	Payment Amount
None				

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 29th, 2009




RONALD E. ZIMMERMAN
BOURN PARTNERS, LLC
Industrial Services Group
3915 E. Broadway Blvd, 4th Floor
Tucson, AZ. 85711
Main (520) 323-1005
Fax (520) 323-5630
rzimmerman@bournpartners.com



EXCLUSIVE AUTHORIZATION OF SALE

OWNER hereby grants to BOURN PARTNERS, LLC ("Broker"), the exclusive right to negotiate the sale of the real property described below (the "Property") for a period commencing on **July 30, 2009** and ending at midnight on **October 31st, 2009** (the "Listing Period") unless this Authorization is extended in writing and signed by both Owner and Broker.

Property is located at **4742 and 4749 S. Irving** in the City of Tucson, County of Pima, State of Arizona, and further described as Four (4) buildings consisting of approximately 14,852 square feet single tenant buildings situated on an approximately 1.03 Acres (44,945 SF) parcel of land which is zoned CI-1 for Light Industrial property and further described as Pima County Tax Assessor number 132-25-074A, 132-25-081A and 132-25-0840.

The price and terms of the sale shall be as follows: One Million One Hundred and Seventy Five Thousand Dollars (\$1,175,000.00) cash at close of escrow or as agreed to by owner. 

If during the Listing Period an option or right of first refusal to purchase the Property or any interest therein is granted or an escrow is opened or negotiations involving the sale, transfer or conveyance of the Property have commenced and are continuing, then the term of the Listing Period shall be extended with respect to such transaction(s) and negotiations for a period through the exercise of such option or right of first refusal, the closing of such escrow, the termination of such negotiations or the consummation of such transaction.

In consideration of this Authorization and Brokers agreement diligently to pursue the procurement of a purchaser for the Property, Owner agrees to pay Broker a commission as follows:

1. ~~Unimproved Property: 6% of the gross sales price.~~
2. **Improved Property: 6% of the gross sales price.**
3. ~~Joint Venture/Exchange: If an exchange or joint venture is effected in lieu of a sale, a full sales commission shall be paid, computed on the basis of the type and fair market value of the property contributed to the joint venture or properties exchanged. The listing price stated herein shall be prima facie evidence of the fair market value of the Property.~~
4. ~~Business Opportunity: 10% of the gross sales price.~~

Owner shall pay said commission to Broker if during the Listing Period: (a) the Property or any interest therein is sold, transferred or conveyed by or through Broker, Owner or any other person or entity; or (b) a purchaser is procured by or through Broker, Owner or any other person or entity who is ready, willing and able to purchase the Property or any interest therein on the terms above stated or other terms acceptable to the owner of the Property; or (c) any contract for the sale, transfer or conveyance of the Property or any interest therein, including without limitation the granting of an option or right of first refusal, is made directly or indirectly by the owner of the Property; or (d) ~~this Authorization is terminated or the Property is withdrawn from sale without the written consent of Broker or the Property is made unmarketable by Owner's voluntary act.~~ Owner shall also pay said commission to Broker if within one hundred twenty (120) days after the expiration of the Listing Period: (1) the owner of the Property enters into a contract for the sale, transfer or conveyance of the Property or any interest therein, including without limitation the granting of an option or right of first refusal, to

In the event an escrow is opened during the Listing Period with respect to the sale, transfer or conveyance of the Property or any interest therein, Owner hereby assigns to Broker and authorizes and instructs the escrow agent to disburse to Broker the amount of the compensation provided for herein from the funds payable to Owner.

In the event a claim or controversy arises concerning any failure to pay Broker all or any portion of the amounts provided herein, Owner and Broker hereby agree that such claim or controversy shall be settled by final, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, which rules are incorporated herein by reference, provided, however, that all persons nominated to act as arbitrators of such claim or controversy shall be attorneys at law duly licensed to practice before the courts of the State where the arbitration is conducted. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Depositions may be taken and other discovery may be obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings. The unsuccessful party shall pay the costs of conducting the arbitration. In the event any arbitration proceeding or legal action to enforce an arbitration award is commenced to recover compensation hereunder, the prevailing party shall be entitled to recover its expenses and reasonable attorneys' fees incurred therein from the unsuccessful party.

If there is a failure to make any payment to Broker at the time required herein, the delinquent sum(s) shall bear interest at the rate of 18% per year or the maximum nonusurious interest rate for loans permitted by law, whichever is lower.

Owner hereby authorizes Broker to represent and serve as agent for any purchaser or prospective purchaser of the Property or of any interest therein, and Owner hereby waives any conflict of interests which might arise as a result thereof.

The heirs, transferees, successors and assigns of the parties hereto are duly bound by the provisions hereof.

SALE/LEASE AMERICANS WITH DISABILITIES ACT AND HAZARDOUS MATERIALS AND TAX DISCLOSURE

The Americans With Disabilities Act is intended to make many business establishments equally accessible to persons with a variety of disabilities; modifications to real property may be required. State and local laws also may mandate changes. The real estate agents in this transaction are not qualified to advise you as to what, if any, changes may be required now, or in the future. Owners and tenants should consult the attorneys and qualified design professionals of their choice for information regarding these matters. Real estate agents cannot determine which attorneys or design professionals have the appropriate expertise in this area.

Various construction materials may contain items that have been or may be in the future be determined to be hazardous (toxic) or undesirable and may need to be specifically treated/handled or removed. For example, some transformers and other electrical components contain PCB'S, and asbestos has been used in components such as fire-proofing, heating and cooling systems, air duct insulation, spray-on and tile acoustical materials, linoleum, floor tiles, roofing, dry wall and plaster. Due to prior or current uses of the Property or in the area, the Property may have hazardous or undesirable metals, minerals, chemicals, hydrocarbons, or biological or radioactive items (including electric and magnetic fields) in soils, water, building components, above or below-ground containers or elsewhere in areas that may or may not be accessible or noticeable. Such items may leak or otherwise be released. Real estate agents have no expertise in the detection or correction of hazardous or undesirable items. Expert inspections are necessary. Current or future laws may require clean up by past, present and/or future owners and/or operators. It is the responsibility of the ~~Seller/Lessor and~~ Buyer/Tenant to retain qualified experts to detect and correct such matters and to consult with legal counsel of their choice to determine what provisions, if any, they may wish to include in transaction documents regarding the Property.



July 27, 2009

To Whom It May Concern:

Designated Broker responsibilities are hereby transferred, effective Tuesday, July 28, 2009 through and including Monday, August 3, 2009, to Rebecca Stauber. Her Arizona real estate license number is SA584668000. Upon my return to the office, I will resume the responsibilities of Designated Broker for Bourn Partners, LLC.

Respectively submitted,

A handwritten signature in black ink that reads "C.L. Ross". The signature is written in a cursive, flowing style.

C.L. Ross
Designated Broker