

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

FILED
2009 AUG 10 AM 11:22

IN RE:

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

Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

CLERK
U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

VERIFIED STATEMENTS OF CONNECTIONS

I, Douglas P. Flaherty, declare under penalty of perjury:

1. I am an attorney of Flaherty & Flaherty, APLC, located at 401 West "A" Street, Suite 2220, San Diego, California, 92101 (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 collection attorney services to the Debtors, and the Firm has consented to provide such services.
3. If the Firm is a law firm, I state that the Firm did represent the Debtors prior to their bankruptcy filings.
4. 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, 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, the Firm is a "disinterested person" under 11 U.S.C. § 101(14), such that the Firm:

- (a) is not a creditor, 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.

5. As part of its customary practice, the Firm is retained 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.

6. 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.

7. In the ordinary course of its business, the Firm confirms conflicts by reviewing its client base. [The Firm's database contains information regarding the Firm's present and past representations.] Pursuant to Federal Rule of Bankruptcy Procedure 2014(a), I obtained a list of the entities identified in Rule 2014(a) from counsel to the Debtors for purposes of searching the aforementioned database and determining the connection(s) which the Firm has with such entities. The Firm's review identified the following connections:

TWF Construction, Inc.

8. Neither I nor any principal, associate 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, 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, I state that neither I principal, associate of, or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors.

9. The Debtors owe the Firm \$3,670.36 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 a 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, the Firm was not party to an agreement for indemnification with certain of the Debtors.

12. If the Firm is not a law firm, the following is a list of all payments which the Firm received from the Debtors during the year prior to the Debtors' bankruptcy filings:

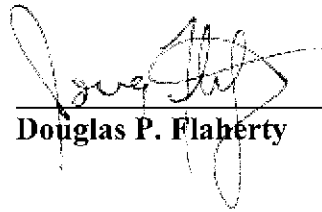
Not Applicable.

13. The Firm is conducting further inquiries regarding 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.

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

Date: August 5, 2009



Douglas P. Flaherty

FLAHERTY & FLAHERTY

A PROFESSIONAL LAW CORPORATION
401 WEST "A" STREET, SUITE 2220
SAN DIEGO, CA 92101-7809
TELEPHONE (619) 230-8600
FACSIMILE (619) 702-5160

April 30, 2007

ATTORNEY-CLIENT FEE CONTRACT

This document ("agreement") is the written fee contract that California law requires lawyers to have with their clients. Flaherty & Flaherty, A Professional Law Corporation, will provide legal services to you on the terms set forth below.

1. **SCOPE OF SERVICES.** You are hiring us as your attorney, to represent you in the matter described in Paragraph 10 below. We will provide those legal services reasonably required to represent you. We will take reasonable steps to keep you informed of progress and to respond to your inquiries. If a court action is filed, we will represent you through trial and post-trial motions. Unless we make a different agreement in writing, this agreement will govern all future services we may perform for you.

2. **CLIENT'S DUTIES.** You agree to be truthful with us, to cooperate, to keep us informed of developments, to abide by this agreement, to pay our bills on time and to keep us advised of your address, telephone number and whereabouts.

3. **LEGAL FEES AND BILLING PRACTICES.** You agree to pay by the hour at the prevailing rate for time spent on your matter by our legal personnel. Our current hourly rates for legal personnel (and other billing rates) is set forth on the attached Rate Schedule. The rate schedule also provides for periodic increases.

We will charge you for the time we spend on telephone calls relating to your matter, including calls with you, opposing counsel, or court personnel and voice mail messages. Our minimum time charge is ¹⁵/₂ of an hour. The legal personnel assigned to your matter will confer among themselves about the matter, as required. When they do confer, only the highest hour rate person will charge for the time expended. Likewise, if more than one of my legal personnel attends a meeting, court hearing or other proceeding, only the highest hourly rate person will charge for the time spent. We will charge for waiting time in court and elsewhere and for travel time, both local and out of town.

4. **COSTS AND OTHER CHARGES.**

(a) **In General.** We will incur various costs and expenses in performing legal services under this agreement. You agree to pay for those costs and expenses in addition to the hourly fees. The costs and expenses commonly include process servers' fees, fees fixed by law or assessed by courts and other agencies, court reporters' fees, long distance telephone calls, messenger and other delivery fees, postage, parking and other local travel expenses, photocopying and other reproduction costs, word processing charges, charges for computer time and other similar items. Except for the items listed on the Rate Schedule, all costs and expenses will be charged at our cost.

All nonstandard costs are to be pre-approved

(b) Out of Town Travel. You agree to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by our personnel. You will also be charged the hourly rates for the time legal personnel spend traveling.

(c) Experts, Consultants and Investigators. To aid in the preparation or presentation of your case, it may become necessary to hire expert witnesses, consultants or investigators. We will not hire such persons unless you agree to pay their fees and charges. We will select any expert witnesses, consultants or investigators to be hired.

5. BILLING STATEMENTS. We will ^{hourly (30)} send you monthly statements for fees and costs incurred. **Each statement will be due within fifteen (15) days of its date.** You may request a statement at intervals of no less than 30 days. If you do, we will provide one within 10 days. Statements are to be paid in full monthly. ~~All payments over 15 days will incur a service charge of 10% per annum.~~ If the scope of work includes trial of your matter, you agree that any outstanding bill will be paid in full 30 days prior to trial or we have the right to withdraw from the case as your attorney.

6. LIEN. You hereby grant us a lien on any and all claims or causes of action that are the subject of our representation under this agreement. Our lien will be for any sums owing to us at the conclusion of our services. The lien will attach to any recovery you may obtain, whether by arbitration award, judgment, settlement or otherwise.

7. DISCHARGE AND WITHDRAWAL. You may discharge us at any time. We may withdraw with your consent or for good cause. Good cause includes your breach of this agreement, your failure to pay your bills in a timely manner, your refusal to cooperate with us or to follow our advice on a material matter or any fact or circumstance that would render our continuing representation unlawful or unethical.

When our services conclude, all unpaid charges will immediately become due and payable. After our services conclude, we will, upon your request, deliver your file to you along with any funds or property of yours in our possession.

8. DISCLAIMER OF GUARANTEE. Nothing in this agreement and nothing in our statements to you will be construed as a promise or guarantee about the outcome of your matter. We make no such promises or guarantees. Our comments about the outcome of your matter are expressions of opinion only.

9. EFFECTIVE DATE. This agreement will take effect upon your signing and returning the enclosed retainer agreement. Even if this agreement does not take effect, you will be obligated to pay us the reasonable value of any services we may have performed for you.

10. RETURN OF DOCUMENTS. All original documents in our possession will be returned to you at the conclusion of your matter. We will retain your files for four (4) years from the date the matter is resolved and at the end of four years the files will be destroyed.

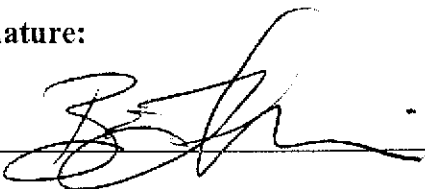
10. **SCOPE OF SERVICES.** SelectBuild v Taylor Frager

TWF CONSTRUCTION INC DBA SelectBuild v Turner (Homewood)

By James H. Flaherty
FLAHERTY & FLAHERTY
A Professional Law Corporation

I/We have read and understood the foregoing terms and those set forth on the attached Rate Schedule and agree to them, as of the date this agreement is signed by me/us. If more than one party signs below, we each agree to be liable, jointly and severally, for all obligations under this agreement.

Signature:

_____

Client:

TWF CONSTRUCTION, INC DBA
SelectBuild.

Address:

610 West Ash Street, Suite 1405

San Diego, CA 92101

Telephone:

((619)814-1709

RATE SCHEDULE

A. IDENTIFICATION

Client:

TWF CONSTRUCTION, INC. DBA
SelectBuild

B. HOURLY RATES FOR LEGAL PERSONNEL

Senior Attorney	<u>\$300.00/hour</u>
Associate Attorney	<u>\$225.00/hour</u>
Paralegal	<u>\$90.00/hour</u>
Law Clerk	<u>\$65.00/hour</u>

C. STANDARD CHARGES

I charge for my time in minimum units of 1/10 hours.

D. COSTS AND EXPENSES

In-Office Photocopying	<u>.20 /page</u>
Mileage	<u>.30 /mile</u>
Facsimile Charges	<u>.50 /page</u>
Computerized Legal Research	<u>cost</u>
Word Processing	<u>cost</u>
Other Computer Time	<u>cost</u>

Please email all documents.

E. SUBJECT TO CHANGE

The rates on this schedule are subject to change on January 1st of each year. You will be given 60 days' written notice. If you decline to pay any increased rates, I will have the right to withdraw as your lawyer.

Initials

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PROOF OF SERVICE

FILED

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CLERK
U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.:

I am a resident of and employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within entitled action; my business address is 401 West "A" Street, Suite 2220, San Diego, CA 92101-7909.

On August 5, 2009 I served the foregoing documents described as:

VERIFIED STATEMENT OF CONNECTIONS

on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Please see attached

The following is the procedure in which service of this document was effected:

X By Mail, as follows:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☐ Federal Express
☐ Express Mail
☐ Personal Service
☐ Via Facsimile

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: August 5, 2009


Douglas P. Flaherty

1 Attachment to Proof of Service

2 United States Bankruptcy Court, District of Delaware
3 IN RE: BUILDING MATERIALS HOLDING CORPORATION, et al
4 Case Number 09-12074 (KJC)

5 Building Materials Holding Corporation
6 Attn: Paul Street
7 720 Park Blvd., Suite 200
8 Boise, ID 83712

9 Michael A. Rosenthal
10 Matthew K. Kelsey
11 GIBSON DUNN & CRUTCHER, LLP
12 200 Park Ave.
13 New York, NY 10166

14 Sean M. Beach
15 Robert F. Poppiti
16 YOUNG CONAWAY STARGATT & TAYLOR, LLP
17 The Brandywine Building
18 1000 West Street, 17th Floor
19 Wilmington, DE 19801

20 Joseph J. McMahon, Jr.
21 The Office of the United States Trustee for the District of Delaware
22 844 King Street, Suite 2207, Lockbox 35
23 Wilmington, DE 19801

24 Christopher J. Giaimo
25 Katie A. Lane
26 ARENT FOX, LLP
27 1050 Connecticut Ave., NW
28 Washington DC 20036-5339

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