

**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)
)	
Debtors.)	Jointly Administered
)	
)	Ref. Docket No. 201

**CERTIFICATION OF COUNSEL REGARDING PROPOSED ORDER APPOINTING
FEE AUDITOR AND DIRECTING RELATED PROCEDURES CONCERNING THE
PAYMENT OF COMPENSATION AND CONSIDERATION OF FEE APPLICATIONS**

On June 16, 2009, Building Materials Holding Corporation and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title of the United States Code, 11 U.S.C. §§ 101 *et seq.* Pursuant to Rule 2016-2(i) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware, the Debtors and the Official Committee of Unsecured Creditors appointed in the Debtors’ bankruptcy cases (the “Committee”) have conferred and agreed upon the appointment of Direct Fee Review LLC (“Direct Fee Review”) as the fee auditor (the “Fee Auditor”) in these chapter 11 cases.

Attached hereto as Exhibit A is a proposed form of order (the “Proposed Order”) appointing Direct Fee Review as the Fee Auditor and establishing related procedures for the allowance and payment of compensation and reimbursement of expenses of professionals and members of the Committee. The Debtors submit that the Proposed Order is appropriate and

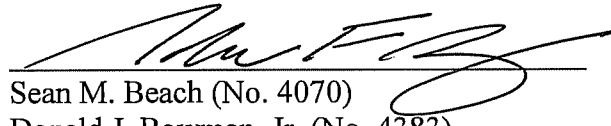
1 The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C 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.

consistent with the discussions between Direct Fee Review, the Debtors and the Committee (collectively, the "Parties"). The Parties agreed to the entry of the Proposed Order and to the appointment of Direct Fee Review after a review of its affidavit of disinterestedness attached hereto as Exhibit B.

Accordingly, the Debtors respectfully request the Court to enter the Proposed Order at its earliest convenience without further notice or a hearing.

Dated: Wilmington, Delaware
October 29, 2009

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ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

IN RE:

Debtors.

Case No. 09-12074 (KJC)

Ref. Docket Nos. 201 and _____

068301.1001

jurisdiction over this matter pursuant to 28 U.S.C. § 157(b)(1) and (2); and the Debtors and the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (the “Committee”) having conferred and reached an agreement regarding the selection of the fee auditor (the “Fee Auditor”) to be appointed in the Chapter 11 Cases and this Order; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. Direct Fee Review LLC is appointed and shall be employed as the Fee Auditor in the Chapter 11 Cases, subject to the filing of a verified statement in accordance with Rule 2014(a) of the Federal Rules of Bankruptcy Procedure.

2. This Order shall apply to all professionals in the Chapter 11 Cases requesting compensation and/or reimbursement of expenses for services rendered pursuant to sections 327, 330 or 503(b) of the Bankruptcy Code, including, but not limited to, any compensation requested by any professional or any other person for making a substantial contribution in the Chapter 11 Cases, but excluding (i) any Ordinary Course Professional (as defined in the OCP Order) employed by the Debtors in the Chapter 11 Cases in accordance with that certain Order Authorizing the Debtors’ Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business [Docket No. 244] (the “OCP Order”), (ii) members of the Committee, on account of such members’ applications for reimbursement of expenses incurred in their capacity as members of the Committee, and (iii) all professionals in the Chapter 11 Cases requesting the payment of any success fee or transaction fee set forth in such professionals’ engagement agreement, solely with respect to such requested success fee or transaction fee.

3. The Fee Auditor shall:

- (a) review all fee applications filed by estate professionals in the Chapter 11 Cases;
- (b) during the course of its review of such fee applications, consult, as it deems appropriate, with each professional concerning such professional's fee application;
- (c) during the course of its examination of the fee applications, review any document filed in the Chapter 11 Cases;
- (d) within twenty (20) days after a professional files a quarterly interim application for allowance of compensation and reimbursement of expenses, serve an initial report (the "Initial Report") on such professional designed to quantify and present factual data relevant to whether the requested fees, disbursements and expenses meet the applicable standards of section 330 of the Bankruptcy Code and Local Rule 2016-2;
- (e) within fifteen (15) days after the service of the Initial Report, engage in informal communication with each professional, the purpose of which is to resolve matters raised in the Initial Report. The Fee Auditor shall endeavor to reach consensual resolution with each professional with respect to that professional's requested fees and expenses. The Fee Auditor may also use the informal response process to revise findings contained in the Initial Report. Each professional may provide the Fee Auditor with verbal or written supplemental information which the professional believes is relevant to the Initial Report;
- (f) following communications between the Fee Auditor and the professional, and the Fee Auditor's review of any supplemental information provided by such professional in response to the Initial Report, conclude the informal response period by filing with the Court a report with respect to each fee application (the "Final Report"), fifteen (15) days after the service of the Initial Report. The Final Report shall be in a format designed to quantify and present factual data relevant to whether the requested fees and expenses of each professional meet the applicable standards of section 330 of the Bankruptcy Code and Local Rule 2016-2. The Final Report shall also inform the Court of all proposed consensual resolutions of the fee and/or expense reimbursement request for each professional and the basis for such proposed consensual resolution; and

- (g) serve each Final Report on the Office of the United States Trustee, counsel for the Committee, counsel for the Debtors and each professional whose fees and expenses are addressed in the Final Report.

4. Prior to any hearing on allowance of compensation and reimbursement of expenses, but no later than twenty (20) days after the Fee Auditor's service of the Final Report, the professional(s) subject to such Final Report may file with the Court a response (a "Response") to such Final Report. Any Response shall be served upon (i) those parties served with the Final Report and (ii) the Fee Auditor.

5. The terms and conditions of the Interim Compensation Order shall not be modified by this Order, except that: At the time of the filing of each Monthly Fee Application (as defined in the Interim Compensation Order), the applicant filing such application (each, an "Applicant") shall send to the Fee Auditor via electronic mail the application, including the fee detail containing the time entries and the expense detail (the "Fee Detail"), in Adobe Acrobat format, and shall send to the Fee Auditor via electronic mail the Fee Detail in an electronic format such as Ledes, Excel, Microsoft Word or WordPerfect, but not Adobe Acrobat. An Applicant need not send to the Fee Auditor the electronic formatted Fee Detail for any Interim Fee Application (as defined in the Interim Compensation Order) if such Applicant has previously submitted all of such electronic formatted Fee Detail relevant to such Interim Fee Application to the Fee Auditor, whether in conjunction with the relevant Monthly Fee Applications or otherwise. If any Applicant cannot reasonably convert its Fee Detail to one of the electronic formats described above, the Fee Auditor will work with such applicant to find an appropriate electronic format

6. The fees and expenses of the Fee Auditor shall be subject to application and review pursuant to section 330 of the Bankruptcy Code and shall be paid from the Debtors' estates as an administrative expense under section 503(b)(2) of the Bankruptcy Code.

7. Counsel for the Debtors shall serve a copy of this Order, in accordance with the Local Rules, on (i) the Office of the United States Trustee, (ii) counsel for the Committee, and (iii) each professional, other than Ordinary Course Professionals (as defined in the OCP Order), employed by the Debtors or the Committee in the Chapter 11 Cases pursuant to sections 327 and 330 of the Bankruptcy Code.

8. This Order shall be effective immediately upon its entry on the docket of the Chapter 11 Cases.

Dated: Wilmington, Delaware
October ____, 2009

Kevin J. Carey
Chief United States Bankruptcy Judge

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
BUILDING MATERIALS HOLDING)	
CORPORATION, et al,)	Case No. 09-12074 (KJC)
)	
Debtors.)	

**VERIFIED STATEMENT OF W. JOSEPH DRYER OF DIRECT FEE REVIEW LLC IN
CERTIFICATION OF NO CONFLICT PURSUANT TO RULE 2014 (a) OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE**

I, W. Joseph Dryer, declare pursuant to Rule 2014 (a) of the Federal Rules of
Bankruptcy Procedure that the foregoing is true and correct:

1. I am a member of Direct Fee Review LLC (the "Firm"), which maintains offices at 5068 W. Plano Parkway, Suite 300, Plano, Texas.
2. Neither I, the Firm, nor any partner, associate or other member thereof, insofar as I have been able to ascertain, is affiliated with or representing any of the above captioned debtors and debtor in possession (the "Debtors"), or its creditors, or any other party in interest, or its attorneys, or its advisors, or any person or entity with claims against the Debtors estates, except as set forth in this Declaration.
3. The Firm, through me, and members of the Firm, have not previously represented or advised the Debtors.
4. To the best of my knowledge, neither I nor the Firm has any connection to the Debtors, their creditors, any other party in interest, their respective attorney's and accountant's or any person employed in the office of the United States Trustee except for the following:

- a) I have been selected to serve as Plan Trustee in the Chapter 11 proceedings of Radnor Holdings Corp et al. The plan has not been confirmed and I have taken no actions.
- b) I serve as the Plan Administrator in the Chapter 11 proceedings of Tower Records (dba) Three A's Holdings LLC, MTS Inc and subsidiaries.
- c) I have served in various capacities in the Chapter 11 proceedings of Three S (Delaware), Inc, PSO Successor Corp, Wilcox and Gibbs Inc, WorldCorp Inc and Lomas Financial Corp. In each of these cases Young Conaway Stargatt & Taylor LLP was involved. None of these cases are active and I am no longer involved in their proceedings.
- d) I serve as an officer of Siena Holdings, Inc, the successor to Lomas Financial Corp.
- e) I serve as an officer of the estate of Geothermal Resources Int. Inc. Gibson Dunn & Crutcher, LLP and PricewaterhouseCoopers LLP US or their representatives were involved in the Chapter 11 proceedings. They are no longer involved with the Company.
- f) As a fee auditor in the case of AbitibiBowater, Inc. et al, I have audited the fee applications of Young Conaway Stargatt & Taylor, LLP and PricewaterhouseCoopers LLP. The Garden City Group is also employed by the estate but that firm is not subject to our review.
- g) I was an employee of KPMG LLP as an auditor from June 1981 to February 1984 but have no active connection with the firm.
- h) I have consumer accounts with various interested financial institutions and utilities, none of which are material.

- i) In the event that additional information becomes available that reveals any other connections with parties in interest, this Verified Statement will be amended or supplemented.
- a) Don F. Oliver is retained as an ordinary course professional by The Flintkote Company and prior to their Chapter 11 proceedings as a financial consultant from 1989. PricewaterhouseCoopers LLP US, or their predecessors were retained as the auditors of The Flintkote Company through 2003. PricewaterhouseCoopers LLP US are no longer involved with the Company. Young Conaway Stargatt & Taylor LLP are retained as counsel to the Legal Representative of Future Asbestos Claimants in the Flintkote Chapter 11 case.
- b) As a fee auditor in the case of AbitibiBowater, Inc. et al, Don F. Oliver has audited the fee applications of Young Conaway Stargatt & Taylor, LLP and PricewaterhouseCoopers LLP. The Garden City Group is also employed by the estate but that firm is not subject to our review.
- c) Don F. Oliver was an employee of KPMG LLP as an auditor but has no active connection with the firm.
- d) Don F. Oliver has consumer accounts with various interested financial institutions and utilities, none of which are material.

5. I do not believe that serving as fee auditor in these cases presents any conflict of interest.

6. The Firm's current customary hourly rate, subject to change from time to time, is \$175 per hour for the declarant and \$175 per hour for Don F. Oliver plus reimbursement of expenses. In the normal course of business, the Firm revises its regular hourly rates on January 1st of each year and requests that, effective January 1st of each year, the aforementioned rate be revised to the regular hourly rate which will be in effect at that time.

7. No agreement or understanding exists between the Firm or any partner, auditor or other member thereof as to compensation in connection with this chapter 11 case.

8. The Firm has no agreement with any entity to share with such entity any compensation received by the Firm.

9. The Firm and its partners, auditors and other members may have in the past represented and may in the future represent entities that are claimants of the Debtors in matters totally unrelated to the matters with respect to which the Firm is to be engaged.

10. Neither I, the Firm, nor any partner, auditor or other member thereof, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors, or its estate in the matters upon which the Firm is to be engaged.

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

Executed this 28th day of October, 2009.

DIRECT FEE REVIEW LLC

By: 
W. Joseph Dryer