

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

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Ref. Docket No. 788</b>

**ORDER (I) AUTHORIZING ASSUMPTION OF INSURANCE  
PROGRAM; (II) AUTHORIZING THE DEBTORS TO ENTER INTO  
INSURANCE AGREEMENTS; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (the "***Motion***") of Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "***Debtors***") for entry of an order (i) authorizing the assumption of the ACE Insurance Program;<sup>2</sup> (ii) authorizing the Debtors to enter into the Insurance Agreements; and (iii) granting related relief; all as set forth in the Motion; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. sections 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the particular circumstances; and the Court having

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED:**

1. The Motion is granted as set forth below.
2. The ACE Insurance Program is hereby assumed pursuant to section 365 of the Bankruptcy Code.
3. To the extent that ACE and the Debtors become aware of any prepetition undisputed defaults in connection with the ACE Insurance Program, the Debtors promptly will cure any such defaults.
4. Upon the consent of Wells Fargo Bank as agent under the Debtors' Prepetition Credit Agreement and DIP Facility (as defined in the Plan) ACE shall have a superpriority security interest in and lien on the Debtors' right, title and interest, if any, in the Existing Collateral and the New Collateral provided by the Debtors to ACE and the proceeds thereof pursuant to section 364(d)(1) of the Bankruptcy Code. Notwithstanding anything contained in this Court's *Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Secured Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Prepetition Lenders, and (IV) Modifying the Automatic Stay* [Docket No. 132] (the "**Final DIP Order**") or the DIP Credit Agreement (as defined in the Final DIP Order) to the contrary, the Debtors' Motion seeking authority to grant and this Court's granting of such superpriority security interests shall not be an Event of Default under the DIP Credit Agreement (as defined in the Final DIP Order).

5. The Existing Collateral and the New Collateral provided to ACE and the proceeds thereof shall be free and clear of all security interests and liens except those granted in favor of ACE.

6. The Debtors are authorized to enter into the Insurance Agreements, to execute and deliver all related documents and agreements or amendments thereto, and to perform their obligations hereunder and thereunder, including the payment of all amounts due thereunder and the provision of the New Collateral to ACE as security for all of the Debtors' obligations in connection with the Insurance Agreements in the ordinary course of business, without notice, a hearing, or further order of the Court.

7. The Debtors are authorized to agree to amendments and/or future renewals or extensions of the ACE Insurance Program and the Insurance Agreements including, without limitation, to execute related agreements and to provide additional letters of credit and other collateral or security therefor, without further order of the Court.

8. ACE shall have an allowed administrative expense claim under section 503(b)(1)(A) of the Bankruptcy Code to be paid in the ordinary course for all claims arising under or related to the ACE Insurance Program or the Insurance Agreements including, but not limited to, payment and reimbursement obligations of the Debtors under the ACE Insurance Program or the Insurance Agreements. ACE shall not be required to file proofs of claim, cure claims, objections to cure claims, or an application, motion, or request for allowance and payment of an administrative claim in any of the Debtors' cases and any order of this Court establishing a bar date for the filing of prepetition, cure, or administrative claims shall not apply to any claims ACE may assert in respect of the ACE Insurance Program or the Insurance Agreements.

9. ACE shall have the right to draw against any or all Letters of Credit and other collateral or security provided, at any time, by the Debtors, hold the proceeds thereof as security for the Debtors' obligations and/or apply such proceeds to the Debtors' obligations, in such order as ACE may determine, cancel the Insurance Agreements, and take other actions, all to the extent permitted under applicable non-bankruptcy law and the ACE Insurance Program and the Insurance Agreements (including the right to require arbitration), without further order of this Court. The automatic stay, to the extent applicable, is deemed lifted pursuant to section 362(d) of the Bankruptcy Code for these purposes.

10. Except as set forth in the Insurance Agreements, (i) the Existing Collateral shall secure any and all obligations of the Debtors arising under the ACE Insurance Program and the Letter Agreement and (ii) the New Collateral shall secure any and all obligations of the Debtors arising under the Insurance Agreements other than the Letter Agreement.

11. ACE's and the Debtors' respective rights under the ACE Insurance Program and the Insurance Agreements, including the right to require arbitration, are hereby preserved and are not waived.

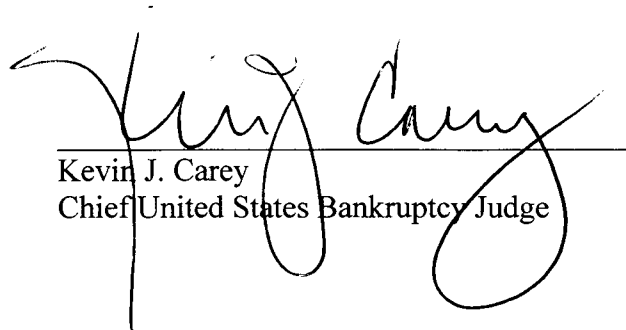
12. This Order shall be immediately enforceable by the Debtors and ACE upon entry hereof and the ten day stay set forth in the Federal Rule of Bankruptcy Procedure 6004(h) shall be, and hereby is, waived.

13. Neither the ACE Insurance Program nor the Insurance Agreements shall be altered by any plan of reorganization or other order of this Court.

14. The Debtors are authorized to take any action necessary to effectuate the terms of this Order without further order of the Court.

15. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware  
October 30, 2009



Kevin J. Carey  
Chief United States Bankruptcy Judge