

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. <u>778,943</u>

**ORDER AUTHORIZING REJECTION OF THAT CERTAIN
EXECUTORY CONTRACT WITH GSA HOME ENERGY SOLUTIONS,
NUNC PRO TUNC TO THE REJECTION EFFECTIVE DATE**

Upon consideration of the motion (the "**Motion**")² of Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**") for entry of an order authorizing the Debtors to reject, *nunc pro tunc* to the Rejection Effective Date, that certain executory contract by and between GSA Home Energy Solutions, LLC ("**HES**") and BMC West Corporation, dated as of September 15, 2008 (the "**HES Agreement**"); 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

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.

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

appropriate under the particular circumstances; and the Court having 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 and at the Hearing 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. Pursuant to section 365(a) of the Bankruptcy Code, the Debtors are authorized to reject the HES Agreement. Effective immediately, such HES Agreement is deemed rejected (the "**Rejection**"), with the Rejection being effective as of October 26, 2009 (the "**Rejection Effective Date**").
3. In accordance with that certain Order Pursuant to Sections 501, 502, and 1111(a) of the Bankruptcy Code, Bankruptcy Rules 2002 and 3003(c)(3), and Local Rule 2002-1(e) Establishing Bar Dates for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof [Docket No. 248], any claim for damages allegedly arising from the rejection of the HES Agreement (a "**Rejection Damages Claim**") must be filed on or before the date which is thirty (30) days from the entry of this Order (the "**Rejection Bar Date**"). Any holder of a Rejection Damages Claim which fails to timely file a proof of such claim on or before the Rejection Bar Date shall not be treated as a creditor for purposes of receiving any distributions under the Plan.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. The Debtors do not waive any claims they may have against HES, whether or not such claims arise under, are related to the rejection of, or are independent of the HES Agreement.

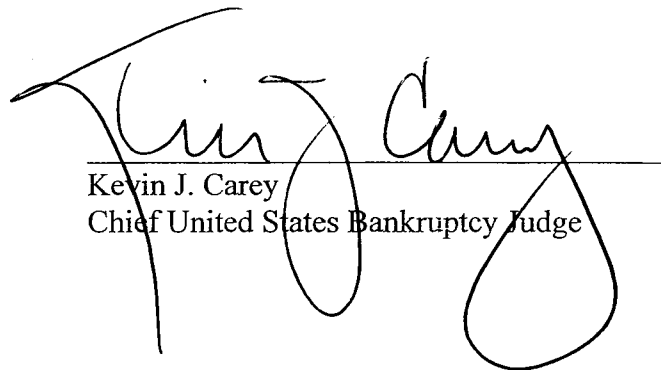
6. Nothing herein shall prejudice the rights of the Debtors to argue that any Rejection Damages Claim is limited to the remedies available under any applicable termination provision of the HES Agreement, or that any such claim is an obligation of a third party, and not that of the Debtors or their estates.

7. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and the requirements of Bankruptcy Rule 6006(c) and the Local Bankruptcy Rules are satisfied by such notice.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Date: Wilmington, Delaware
November 19, 2009



Kevin J. Carey
Chief United States Bankruptcy Judge