

Motion by MG Building Materials, Ltd. to Deem Two Proofs of Claim as Timely Filed (the “MG Motion”).

By the MG Motion, creditor MG Building Materials, Ltd. (“MG”) seeks an extension of the May 19, 2008 claims bar date (the “Bar Date”) to file its proofs of claim against Newmark Homes, L.P. (“Newmark”). On June 4, 2008, MG filed two proofs of claim (the “Proofs of Claim”) alleging that Newmark failed to pay MG for building materials sold prior to the petition date. In December 2007, MG had commenced litigation in Texas state court seeking payment of unpaid invoices.

On March 17, 2008, the Bankruptcy Court entered an order (the “Bar Date Order”) setting May 19, 2008 as the Bar Date. MG requests that its Proofs of Claim be deemed timely filed, even though they were filed after the Bar Date because MG alleges that it did not receive notice of the Bar Date. MG’s state court counsel received a notice of the Bar Date, but the notice named the attorney, not MG, as the creditor. MG further alleges that the name “Newmark” was not prominently displayed on the notice making it impossible for the attorney to identify the client to which the notice should have been addressed. MG asserts that the attorney learned of the Bar Date through a conversation with another attorney and filed the Proofs of Claim the following day.

A hearing on the MG Motion has been scheduled for August 25, 2008, with an objection deadline of August 21, 2008 at 5:00 p.m. (ET).