

1 Clifford A. Chanler, State Bar No. 135534
Mark Todres, State Bar No. 168389
2 Joshua M. King, State Bar No. 165987
CHANLER & SOMERS
3 1700 Montgomery Street, Suite 110
San Francisco, CA 94111
4 Tel: (415) 391-1122

5 Attorneys for Plaintiff
AS YOU SOW
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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN MATEO

10 AS YOU SOW, a non-profit)
11 corporation,)
12)
13 Plaintiff,)
14 v.)
15 AKZO NOBEL, a corporation, and)
16 DOES 1 through 1500,)
17)
18 Defendants.)
19)
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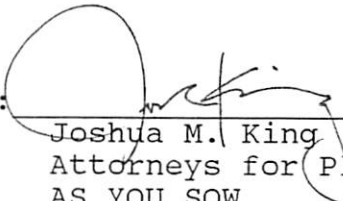
Case No. 394326

STIPULATION FOR
ENTRY OF JUDGMENT

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IT IS HEREBY STIPULATED, by and between plaintiff As
You Sow and defendant Akzo Nobel Coatings, Inc., through their
respective representatives, that judgment in the above-
entitled action be entered in accordance with the terms of the
settlement agreement between the parties, which is attached
hereto as Exhibit A.

Dated: January 31, 1996

by: 
Joshua M. King
Attorneys for Plaintiff
AS YOU SOW

Dated: January 31, 1996


by: 
Thomas A. Douvan
Attorneys for Defendant
AKZO NOBEL COATINGS, INC.

EXHIBIT A

SETTLEMENT AGREEMENT

On January 31, 1996 in San Francisco, California, As You Sow ("AYS") and Akzo Nobel Coatings Inc. ("Akzo Nobel") agreed to the following terms and conditions:

WHEREAS:

AYS is a not-for-profit public interest foundation dedicated to promoting consumer awareness, protecting the environment and improving human health; and

Akzo Nobel is a company that manufactures and distributes coatings and paint products including, but not limited to, paints, primers, enamels, lacquers, urethanes, accelerators, hardeners, reducers, toners, bases, sealers, adhesives, fillers, putties, cleaners, additives, resins, polymers, stains, alkyls, acrylics, cellulose based coatings, vinyls, rosins, pastes, wax pastes, water soluble coatings, organic soluble coatings, isols, styrenes, rubbers, finishers, glazes, inks, emulsions, varnish, urethanes, bronzers, polyesters, polyurethanes, silicones, epoxys, catalysts, oils, acrylates, thiolenes, polyols, melamine, compounds, formaldehydes, polyethylene, polyolefins, urea compounds, cleaners, plasticizers, esters, amines, oleoresinous compounds, latexes, silicone-modified polyesters, flouropolymers, siliconemodified acrylics, colloids; modified rosin polymers, ink resins, printing ink resins, vehicles, paper chemicals and other special purpose coatings products in the State of California that contain Proposition 65 listed chemicals including, but not limited to, carbon black, formaldehyde, chromium (hexavalent compounds) (including, for example, zinc chromate, strontium chromate, lead chromate and chromium oxide), lead and lead compounds (including, for example, lead chromate lead molybdate, lead sulfate, and lead titanate), silica (crystalline), antimony trioxide, toluene, cadmium and cadmium compounds (including, for example, cadmium sulfoselenide 108, cadmium sulfide, cadmium sulfide/zinc sulfide, and cadmium sulfoselenide 20), nickel and nickel compounds, ethylene glycol monomethyl ether, ethylene glycol monomethyl ether acetate, acrylamide, arsenic, benzene, bis (dimethylamino)-benzophenone (Michler's ketone), carbon tetrachloride, chlorothalonil, D&C Orange 17, di (2-ethylehexyl) phthalate, 1,4-dioxane, epichlorohydrin, ethyl acrylate, hexachlorobenzene, methylene chloride, 4,4'-methylenedianiline, N-methylol acrylamide, nitrilotriacetic acid, 2-nitropropane, perchloroethylene, propylene oxide, soots, tar, mineral oils, toluene diisocyanate, tris (2-chloroethyl) phosphate, acetaldehyde, acrylonitrile, allyl chloride, aniline, benzyl chloride, beryllium and beryllium compounds, 1, 3-butadiene, chloroform, cobalt, diethyl sulfate, glycidol, hydrazine, lithium carbonate, 2-methylaziridine, phenyl glycidyl ether, polychlorinated byphenyls (including those at more than 60% chlorine by molecular weight and those at less than 60% chlorine by molecular weight), vinyl chloride, ethylene glycol monoethyl ether, and ethylene glycol monoethyl ether, allegedly in violation of Health and Safety Code §25249.6; and

On January 1, 1991, toluene was officially listed by the State of California as a chemical known to cause birth defects or other reproductive harm, pursuant to Health and Safety Code §25249.8; and

On February 27, 1987, chromium (hexavalent compounds) was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health and Safety Code §25249.8; and

On February 27, 1987, lead was officially listed by the State of California as a chemical known to cause birth defects or other reproductive harm, and on October 1, 1992, lead and lead compounds were officially listed by the State of California as chemicals known to cause cancer, pursuant to Health and Safety Code §25249.8; and

On October 1, 1988, silica (crystalline) was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

On January 1, 1988, formaldehyde was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

On January 1, 1990, carbon black was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

On October 1, 1990, antimony trioxide was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health and Safety Codes §25249.8; and

On October 1, 1989, toluene diisocyanate was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health and Safety Codes §25249.8; and

On October 1, 1987, cadmium and cadmium compounds (including, but not limited to, cadmium sulfoselenide 108, cadmium sulfide, cadmium sulfide/zinc sulfide, and cadmium sulfoselenide 20), were officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1989, nickel and nickel compounds were officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1989, ethylene glycol monomethyl ether and ethylene glycol monomethyl ether acetate were officially listed by the State of California as chemicals known to cause birth defects or other reproductive harm pursuant to Health and Safety Codes §25249.8; and

On January 1, 1990, acrylamide was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On February 27, 1987, arsenic was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On February 27, 1987, benzene was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1988, bis (dimethylamino)-benzophenone (Michler's ketone) was officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1987, cadmium was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1987, carbon tetrachloride was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1989, chlorothalonil was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On July 1, 1990, D&C Orange 17 was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1988, di(2-ethylhexyl) phthalate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1988, 1,4-dioxane was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1987, epichlorohydrin was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On July 1, 1989, ethyl acrylate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1987, hexachlorobenzene was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On April 1, 1988, methylene chloride was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1988, 4,4'-methylenedianiline was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On July 1, 1990, n-methylol acrylamide was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On April 1, 1989, nitrilotriacetic acid was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1988, 2-nitropropane was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On April 1, 1988, perchloroethylene was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On October 1, 1988, propylene oxide was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On February 27, 1987, soots, tars, and mineral oils were officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On April 1, 1992, tris (2-Chloroethyl) Phosphate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On April 1, 1988, acetaldehyde was officially listed by the State of California as a chemical known to cause cancer; pursuant to Health and Safety Codes §25249.8; and

On July 1, 1987 acrylonitrile was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On January 1, 1990 allyl chloride was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On January 1, 1990 aniline was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249. and 8;

On January 1, 1990 benzyl chloride was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On April 1, 1988 1,3 butadiene was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On October 1, 1987 chloroform was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On July 1, 1992 cobalt metal powder and cobalt [II] oxide were officially listed by State of California as chemicals known to cause cancer pursuant to Health and Safety Code §25249.8; and

On January 1, 1988 diethyl sulfate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On July 1, 1990 glycidol was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On January 1, 1988 hydrazine was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On January 1, 1988 2 - methylazinedine was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On October 1, 1990 phenyl glycidyl ether was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Code §25249.8; and

On October 1, 1989 polychlorinated biphenyls were officially listed by the State of California as chemicals known to cause cancer, and on January 1, 1991 polychlorinated byphenyls were officially listed by the State of California as chemicals known to cause birth defects or other reproductive harm pursuant to Health and Safety Code §25249.8; and

On January 1, 1988 polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight) were officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On February 27, 1987 vinyl chloride was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and safety Code §25249.8; and

On January 1, 1991 lithium carbonate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On November 1, 1987, beryllium and beryllium compounds were officially listed by the State of California as chemicals known to cause birth defects or other reproductive harm pursuant to Health and Safety Codes §25249.8; and

On January 1, 1989, ethylene glycol monoethyl ether was officially listed by the State of California as chemicals known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On January 1, 1993, ethylene glycol monoethyl ether acetate was officially listed by the State of California as a chemical known to cause cancer pursuant to Health and Safety Codes §25249.8; and

On July 29, 1994, AYS provided Akzo Nobel with a document entitled "60-Day Notice" which provided Akzo Nobel with notice of its alleged failure to provide warnings relating to toluene in its products in violation of Health and Safety Code §25249.6; and

On September 30, 1994, AYS provided Akzo Nobel with an additional document entitled "60-Day Notice" of its alleged failure to provide warnings relating to Proposition 65 chemicals including, but not limited to carbon black, formaldehyde, chromium (hexavalent compounds), lead and lead compounds and silica (crystalline) in violation of Health and Safety Code §25249.6 and

On December 16, 1994, AYS provided Akzo Nobel with an additional document entitled "60-Day Notice" of its alleged failure to provide warnings relating to Proposition 65 chemicals including, but not limited to antimony trioxide, toluene diisocyanate, aluminum flake, and C.I. Pigment Brown in violation of Health and Safety Code §25249.6 and

On December 20, 1994, AYS provided Akzo Nobel with an additional document entitled "60-Day Notice" of its alleged failure to provide warnings relating to Proposition 65 chemicals cadmium and cadmium compounds (including, but not limited to, cadmium sulfoselenide 108, cadmium sulfide, cadmium sulfide/zinc sulfide, and cadmium sulfoselenide 20), nickel and nickel compounds, ethylene glycol monomethyl ether, and ethylene glycol monomethyl ether acetate in violation of Health and Safety Code §25249.6 and

On August 7, 1995, AYS provided Akzo Nobel with an additional document entitled "60-Day Notice" of its alleged failure to provide warnings relating to Proposition 65 chemicals: acrylamide, arsenic, benzene, bis (dimethylamino)-benzophenone (michler's keytone), cadmium, calcined nickel and antimony compounds, carbon tetrachloride, chlorothalonil, D&C Orange 17, DI (2-ethylehexyl) phthalate, 1,4-dioxane, epichlorohydrin, ethyl acrylate, hexachlorobenzene,

methylene chloride, 4,4'-methylenedianiline, n-methylol acrylamide, nitrilotriacetic acid, 2-nitropropane, perchloroethylene, Pigment Brown 24, propylene oxide, silica, crystalline, soots, tar, lubricating oils, toluene diisocyanate, tris (2-chloroethyl) phosphate, acetaldehyde, acrylonitrile, allyl chloride, aniline, benzyl chloride, beryllium and beryllium compounds, 1, 3-butadiene, chloroform, cobalt, diethyl sulfate, glycidol, hydrazine, lithium carbonate, 2 - methylaziridine, phenyl glycidyl ether, polychlorinated byphenyls (containing either more than and less than 60 percent chlorine by molecular weight) vinyl chloride, ethylene glycolethyl ether, and ethylene glycolethyl ether acetate, in violation of Health and Safety Code §25249.6 in certain Products manufactured or distributed by Akzo Nobel and

On November 6, 1995, AYS filed a complaint entitled As You Sow v. Akzo Nobel, et al. (No. 394326 in California Superior Court for the County of San Mateo) alleging violations of Business & Professions Code §17200 and Health & Safety Code §25249.6 on behalf of individuals in California who are being allegedly exposed to Proposition 65-listed chemicals in certain Akzo Nobel products; and

AYS and Akzo Nobel desire to compromise, settle, and conclude all disputes, controversies, claims and causes of action of any kind which the parties hereto have, may have or claim to have against each other arising from or relating to the presence of Proposition 65 listed chemicals including but not limited to carbon black, formaldehyde, chromium (hexavalent compounds) (including, for example, zinc chromate, strontium chromate, lead chromate and chromium oxide), lead and lead compounds (including, for example, lead chromate lead molybdate, lead sulfate, and lead titanate), silica (crystalline), antimony trioxide, toluene, cadmium and cadmium compounds (including, for example, cadmium sulfoselenide 108, cadmium sulfide, cadmium sulfide/zinc sulfide, and cadmium sulfoselenide 20), nickel and nickel compounds, ethylene glycol monomethyl ether, ethylene glycol monomethyl ether acetate, acrylamide, arsenic, benzene, bis (dimethylamino)-benzophenone (Michler's ketone), carbon tetrachloride, chlorothalonil, D&C Orange 17, di (2-ethylehexyl) phthalate, 1,4-dioxane, epichlorohydrin, ethyl acrylate, hexachlorobenzene, methylene chloride, 4,4'-methylenedianiline, N-methylol acrylamide, nitrilotriacetic acid, 2-nitropropane, perchloroethylene, propylene oxide, soots, tar, mineral oils, toluene diisocyanate, tris (2-chloroethyl) phosphate, acetaldehyde, acrylonitrile, allyl chloride, aniline, benzyl chloride, beryllium and beryllium compounds, 1, 3-butadiene, chloroform, cobalt, diethyl sulfate, glycidol, hydrazine, lithium carbonate, 2-methylaziridine, phenyl glycidyl ether, polychlorinated byphenyls (including those at more than 60% chlorine by molecular weight and those at less than 60% chlorine by molecular weight), vinyl chloride, ethylene glycol monoethyl ether, and ethylene glycol monoethyl ether, in Akzo Nobel's Products (as defined in ¶1.1 below), so that Akzo Nobel has no further liability to AYS relating to or arising out of those Product's alleged failure to comply with Proposition 65, whether directly or by way of indemnification to retail or other sellers of the Products; and

In settling this matter on the terms and conditions hereinafter provided, AYS acknowledges that Akzo Nobel has made a good faith attempt to comply with §12601(c)(1)(C) by providing certain warnings to Akzo Nobel direct customers, including distributors, retailers and jobbers, generic warning statements with some Material Safety Data Sheets sent into California, pursuant to California's Hazard Communication Standard.

NOW, THEREFORE, THE PARTIES in and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in and for the covenants and promises hereinafter set forth, do hereby covenant and agree as follows:

1. Definitions.

1.1. "Products" manufactured or distributed by Akzo Nobel, for purposes of this settlement agreement, means all chemicals, coatings and paint products manufactured or distributed by Akzo Nobel Coatings Inc. including its Industrial Paint Business Unit, Decorative Business Unit, Coil and Extrusion sub-Business Unit and Resins Business Unit at the time this agreement is executed, including, but not limited to, paints, primers, enamels, lacquers, urethanes, accelerators, hardeners, reducers, toners, bases, sealers, adhesives, fillers, putties, cleaners, additives, resins, polymers, stains, alkyls, acrylics, cellulose based coatings, vinyls, rosins, pastes, waxpastes, water soluble coatings, organic soluble coatings, iosols, styrenes, rubbers, finishers, glazes, inks, emulsions, varnish, urethanes, bronzers, polyesters, polyurethanes, silicones, epoxys, catalysts, oils, acrylates, thiolenes, polyols, melamine compounds, formaldehydes, polyethylene, polyolefins, urea compounds, cleaners, plasticizers, esters, amines, oleoresinous compounds, latexes, silicone-modified polyesters, flouropolymers, silicone-modified acrylics, colloids, modified rosin polymers, ink resins, printing ink resins, vehicles, paper chemicals and other special purpose coatings products that contain Proposition 65 listed chemicals, including, but not limited to carbon black, formaldehyde, chromium (hexavalent compounds) (including, for example, zinc chromate, strontium chromate, lead chromate and chromium oxide), lead and lead compounds (including, for example, lead chromate lead molybdate, lead sulfate, and lead titanate), silica (crystalline), antimony trioxide, toluene, cadmium and cadmium compounds (including, for example, cadmium sulfoselenide 108, cadmium sulfide, cadmium sulfide/zinc sulfide, and cadmium sulfoselenide 20), nickel and nickel compounds, ethylene glycol monomethyl ether, ethylene glycol monomethyl ether acetate, acrylamide, arsenic, benzene, bis (dimethylamino)-benzophenone (Michler's ketone), carbon tetrachloride, chlorothalonil, D&C Orange 17, di (2-ethylehexyl) phthalate, 1,4-dioxane, epichlorohydrin, ethyl acrylate, hexachlorobenzene, methylene chloride, 4,4'-methylenedianiline, N-methylol acrylamide, nitrilotriacetic acid, 2-nitropropane, perchloroethylene,

propylene oxide, soots, tar, mineral oils, toluene diisocyanate, tris (2-chloroethyl) phosphate, acetaldehyde, acrylonitrile, allyl chloride, aniline, benzyl chloride, beryllium and beryllium compounds, 1, 3-butadiene, chloroform, cobalt, diethyl sulfate, glycidol, hydrazine, lithium carbonate, 2-methylaziridine, phenyl glycidyl ether, polychlorinated byphenyls (including those at more than 60% chlorine by molecular weight and those at less than 60% chlorine by molecular weight), vinyl chloride, ethylene glycol monoethyl ether, and ethylene glycol monoethyl ether, at levels that require a Proposition 65 warning.

1.2. "Material Safety Data Sheet" ("MSDS") -- written or printed material containing information about a Product provided by Akzo Nobel to its customers to comply with state and federal Hazard Communications Program, 22 C.C.R. 5194 and 29 C.F.R. Part 1910, respectively.

2. Current Production.

2.1. Akzo Nobel agrees that after June 30, 1996, Akzo Nobel shall not directly¹ sell in the State of California any of the Products it manufactures (or after December 31, 1996 for allied Products that Akzo Nobel distributes that are manufactured by other companies) unless each Product requiring a Proposition-65 warning bears a label warning as provided in ¶3.3.1-3.3.3, or Akzo Nobel affixes to the label of each Product a sticker with a clear and reasonable Proposition 65 warning.

2.2. The sticker shall read as hereinafter provided.

2.2.1. For Products that contain as intended² ingredients Proposition 65 listed carcinogens only:

WARNING: This product contains a chemical known to the State of California to cause cancer.

¹It is understood between the parties that the term "directly sell", as it appears throughout this Settlement Agreement defines those Products which Akzo Nobel knows or has reason to know will enter the state of California through Akzo Nobel's regular or planned distribution processes. Akzo shall not be liable for the distribution of those Products over which Akzo Nobel has no control.

² It is understood between the parties that the term "intended ingredients" as it appears throughout this Settlement Agreement does not include unidentified and trace amounts of chemicals in products sold to Akzo Nobel by its suppliers.

- 2.2.2. For Products that contain as intended ingredients Proposition 65 listed reproductive toxicants:

WARNING: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm.

- 2.2.3. For Products that contain as intended ingredients Proposition 65 listed carcinogens and reproductive toxicants:

WARNING: This product contains chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

3. Product Labeling.

- 3.1. Akzo Nobel has begun an orderly process of replacing its Product³ labels with new Product labels to include a clear and reasonable Proposition 65 warning on the label of each Product as outlined in ¶3.4. The warning shall be printed on the label so that it is clear, reasonable and likely to be understood by an ordinary individual.
- 3.2. Akzo Nobel shall make best efforts to ensure that all Products directly sold in California by Akzo Nobel shall be labeled with new Product labels containing the warnings of ¶3.4 no later than December 31, 1996. Notwithstanding this provision, Products manufactured prior to December 31, 1996 will be in compliance with this agreement so long as the Products are fastened with sticker warnings pursuant to provision 2 of this agreement.
- 3.3. It is agreed that notwithstanding the provisions of paragraph 3.2 above, Akzo Nobel Decorative Business Unit Products may be fastened with stickers after June 30, 1996 in compliance with section 2.2.

³ It is understood between the parties that the term "Products" as it appears in this provision (¶3) does not include those Allied products Akzo Nobel distributes but does not manufacture. It is further understood Akzo Nobel will be in compliance with this Settlement Agreement, as it pertains to said Allied Products, since Akzo Nobel does not control the label contents of products it does not manufacture, if the label warnings provided on the Allied Products are substantially similar to the warnings of provision 2.2 and/or by affixing the appropriate sticker warnings in accordance with provision 2.2.

3.4. The Label statement shall read as hereinafter provided.

3.4.1. For Products that contain as intended ingredients Proposition 65 listed carcinogens only:

WARNING: This product contains a chemical known to the State of California to cause cancer.

3.4.2. For Products that contain as intended ingredients Proposition 65 listed reproductive toxicants:

WARNING: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm.

3.4.3. For Products that contain as intended ingredients Proposition 65 listed carcinogens and reproductive toxicants:

WARNING: This product contains chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

4. **MSDS Revisions.** Akzo Nobel has initiated revisions to its current Material Safety Data Sheets for the Products so that the warning on each MSDS will be consistent in wording with the on-label warning language required by ¶3.3.1-3.3.3. Akzo Nobel began printing finalized Material Safety Data Sheets incorporating the revised warnings and promptly distributed them in the orderly and normal course of in the second quarter of 1995. This distribution is substantially completed and shall be completed on or before June 30, 1996 (or after four months thereafter for Allied Products that Akzo Nobel distributes which were manufactured by other companies). By January 31, 1996, Akzo Nobel shall provide AYS with representative MSDSS from its Orange County, California facility for each class of products distributed in California.

5. **Settlement Amount.**

5.1. **Penalty.**

Akzo Nobel shall pay a civil penalty of \$50,000 in two installments as follows:

5.1.1. It is agreed that Akzo Nobel shall make an initial payment of \$10,000 pursuant to Health and Safety Code §25249.7(d) within the period of time provided under Paragraph 16.

5.1.2. Akzo Nobel shall make an additional second payment of \$40,000 on April 1, 1996. The second payment shall be waived if prior to April 1, 1996 Akzo Nobel introduces

in the State of California environmentally protective water based coatings and paint products.

- 5.2. Restitution.** As a restitutionary measure, Akzo Nobel agrees to contribute, pursuant to Paragraph 16 of this agreement:

\$11,750 split equally between the Rain Forest Action Network and AYS for further enforcement of Proposition 65 and further educational materials by AYS. This restitutionary payment is being made pursuant to Business & Professions Code 17203.

- 5.3. Investigation.** In an effort to defray AYS' investigation fees and costs, expert fees and costs, reasonable attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Akzo Nobel's attention, litigating the matter, and negotiating a settlement in the public interest, Akzo Nobel shall pay AYS the sum of \$18,750.
- 6. Supplier information.** Akzo agrees to provide and has provided AYS with representative Material Safety Data Sheets which Akzo Nobel has received in its Orange, California facility from two of its suppliers of product components containing Proposition 65 chemicals over the last six months, and AKZO agrees to provide AYS with five representative copies of labels from the containers which Akzo Nobel has received in its Orange, California facility from suppliers of products containing Proposition 65 chemicals over the last six month period. Such information shall be provided to AYS by January 31, 1996.
- 7. No Admission.** The parties agree to abide by the terms of this Settlement Agreement, however, nothing in the settlement will be construed as an admission by Akzo Nobel of any fact, finding, issue of law, or violation of law and it is understood and agreed that this Settlement Agreement and Release is a compromise of disputed claims.
- 8. Unenforceability.** In the event that any of the provisions of the Agreement is held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
- 9. Warranties and Representations.** The parties make the following representations and warranties:
- 9.1 Akzo Nobel represents and warrants as follows:**
- 9.1.1.** Each of the Products listed, subject to this agreement, contains one or more substances known to the State of California to cause cancer or birth defect or other reproductive toxicity, and that Akzo Nobel has no analytical, risk assessment, or other

data indicating that an exposure to any or all of the Products poses "no significant risk" or will have "no observable effect," as each standard is applicable and as each is defined under Health & Safety Code §25249.10(c).

9.1.2. In the event that Akzo Nobel obtains analytical, risk assessment, or other data that show that an exposure to any or all Products poses "no significant risk" or will have "no observable effect," as each such standard is applicable and as each is defined under Health & Safety Code §25249.10(c), Akzo Nobel shall provide AYS with 90 days prior written notice of its intent to limit or eliminate the warning provisions under Section 1 and shall provide AYS with all such supporting data. Within thirty (30) days of receipt of Akzo Nobel's exposure data, AYS shall provide Akzo Nobel with written notice of its desire to challenge the date (in the event that AYS chooses to make such a challenge), and AYS and Akzo Nobel shall negotiate in good faith to attempt to reach a settlement. In the event that no settlement is reached within thirty (30) days of mailing by AYS of such notice of challenge, AYS and Akzo Nobel agree to submit such challenge to binding arbitration, with an arbitrator acceptable to both parties. The prevailing party shall be entitled to reasonable attorney's fees and costs associated with such an arbitration. If AYS does not challenge Akzo Nobel's notice or the arbitrator determines that no warning is required for a particular Product or Products, Akzo Nobel shall no longer be required to provide the warnings described in Section 1 of this Agreement for those Products.

10. **Governing Law.** The terms of this Settlement Agreement will be governed by the laws of the State of California.
11. **AYS Release.** AYS, in consideration of the Akzo Nobel commitments and payments set forth herein, on its own behalf, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge Akzo Nobel and all entities in the chain of commerce from manufacturing to end user, including but not limited to customers, wholesalers, distributors, retailers, jobbers manufacturers representatives, or any other parties distributing or using the Products, as well as each of Akzo Nobel's successors, assigns, predecessors, affiliates, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate parents, affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages,

responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the specific intent and purpose of the parties hereto that this Settlement Agreement and release shall extend to any and all persons, corporations, associations, or other entities and to any and all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at, or prior to the date hereof; and AYS, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally, omitted with respect to the Products' compliance with Proposition 65.

12. **Akzo Nobel Release.** Akzo Nobel, in consideration of the terms set forth herein, on its own behalf, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge AYS as well as each of their successors, assigns, predecessors, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate parents, affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages, responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from, or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the specific intent and purpose of the parties hereto that this settlement agreement and release shall extend to any and all persons, corporations, associations, or other entities and to any and all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at, prior to, or after the date hereof; and Akzo Nobel, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally, omitted with respect to the Products' compliance with Proposition 65.

13. AYS agrees to prepare, execute and file within 30 days of the execution of this agreement a Stipulation For Entry Of Judgment as well as a Judgment On Stipulation For Entry Of Judgment for the pending litigation entitled As You Sow v. Akzo Nobel et al. No. 394326) with the Superior Court of San Mateo County.
14. This Settlement Agreement shall be terminable at Akzo Nobel's option by written notice at any time after ninety (90) days of the execution of this Settlement Agreement if the California Superior court for San Mateo County has failed to (1) sign the Judgment on Stipulation For Entry or Judgment and (2) approve and confirm this Settlement Agreement as fair and reasonable.
15. In the event a dispute arises with respect to provisions of this agreement addressing payment of monies from Akzo Nobel to AYS, the prevailing party shall be entitled to recover costs and attorneys' fees incurred as a result of the aforementioned dispute to the extent the court finds such fees and costs reasonable.
16. Payments from Akzo to AYS pursuant to provision 5 shall be due in full within ten (10) working days from the date Akzo Nobel is provided oral or written notice of AYS's fulfillment of provision 13.
17. It is agreed that both Akzo Nobel and AYS shall comply with all procedures necessary to seek entry of the Judgment On Stipulation For Entry Of Judgment.
18. **Authority to Execute.** The undersigned are authorized to execute this Settlement Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

BY:


As You Sow

Dated: January 31, 1996

AGREED TO:

BY:


Akzo Nobel Coatings Inc.

Dated: Jan 29, 1996