

## SETTLEMENT AGREEMENT

This Settlement Agreement (or "Agreement") is entered into by and between Michael DiPirro and Central Purchasing, Inc. dba Harbor Freight Tools, a California corporation ("Central"), as of May 31, 2002 (the "Effective Date"). The parties agree to the following terms and conditions:

### WHEREAS:

A. Michael DiPirro is an individual residing in San Francisco, California, who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products;

B. Central is a company that currently manufactures, distributes and/or sells in stores certain products containing lead. Lead (or lead compounds) is a substance known to the State of California to cause cancer and birth defects (or other reproductive harm);

C. A list of the products which contain lead (or lead compounds) (the "Listed Chemical") or which may contain the Listed Chemical and which are covered by this Agreement is provided in Exhibit A (the "Products"). Some of the Products have been manufactured, distributed and/or sold in California since May 1999;

D. The Products manufactured, distributed and/or sold by Central are brass instruments (including, but not limited to, Essex Brass' Civil War Era Army Bugle), brass and brass-faced hammers (including, but not limited to, 2lb. Brass Hammer) and other brass products.

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E. On December 31, 2001, Michael DiPirro first served Central and other public enforcement agencies with a document entitled "60-Day Notice of Violation" which provided Central and such public enforcers with notice that Central alleged to be in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain products they sell in California expose users to the Listed Chemical;

F. Nothing in this Agreement shall be construed as an admission by Central of any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Central of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of Central under this Agreement.

**NOW THEREFORE, MICHAEL DIPIRRO AND CENTRAL AGREE AS FOLLOWS:**

1. **Product Warnings.** Beginning on July 30, 2002, Central agrees that it will not knowingly sell any Products containing the Listed Chemical in the State of California unless such Products comply with the following:

1.1 For all Products containing lead (or lead compounds), either of the following shall occur:

(i) such Products shall bear, in a clear and reasonable manner, the following warning statement:

**"WARNING: The brass components of this product contain lead, a chemical known to the State of California to cause birth defects (or other reproductive harm)."**

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or (ii) such Products shall be sold with the following warning statement posted at Central's retail locations, as provided in section 1.2:

**"WARNING: The brass components of the attached list of products contain or may contain lead, a chemical known to the State of California to cause birth defects (or other reproductive harm). PLEASE SEE MANAGER OR CASHIER FOR MORE INFORMATION."**

1.2 Central shall either post the warning set forth in section 1.1(ii) where such Products are located or in such other location(s) reasonably calculated to provide such information to consumers prior to their purchase of the Products. Central shall comply with section 1.1 as long as the warning statement is required by California's Health and Safety Code §25249.6.

2. **Payment Pursuant To Health & Safety Code §25249.7(b).** In light of the factors enumerated in Health & Safety Code §25249.7(b), Central agrees to pay a civil penalty of \$500. The payment of \$500 shall be paid within ten (10) calendar days of the Effective Date. The penalty payment is to be made payable to "Sheffer & Chanler In Trust For Michael DiPirro". Penalty monies shall be apportioned by DiPirro in accordance with Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Department of Toxic Substances Control.

3. **Reimbursement Of Fees And Costs.** Under the private attorney general doctrine codified at C.C.P. §1021.5, Central shall reimburse DiPirro and his counsel for his fees and costs, incurred as a result of investigating, bringing this matter to Central's attention, litigating and negotiating a settlement in the public interest. Central shall pay \$2,000 for all attorneys' fees, expert and investigation fees, and litigation costs.

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Central agrees to pay the total sum of \$2,000 within ten (10) calendar days of the Effective Date. Payment should be made payable to the "Sheffer & Chanler".

**4. Michael DiPirro's Release Of Central.** Michael DiPirro, by this Agreement, on behalf of himself, his agents, representatives, attorneys, assigns and in the interest of the general public, waives all rights to institute or participate in, directly or indirectly, any form of legal action, and releases all claims, liabilities, obligations, losses, costs, expenses, fines and damages, against Central, all of its downstream retailers distributors, customers, directors, officers, employees, successors and assigns, whether under Proposition 65 or the Business & Profession Code §17200 et seq. based on Central's alleged failure to warn about exposure to the Listed Chemical contained in any of the Products.

**5. Central's Release Of Michael DiPirro.** Central, by this Agreement, waives all rights to institute any form of legal action against Michael DiPirro or his attorneys or representatives, for all actions or statements made by Michael DiPirro, and his attorneys or representatives, in the course of seeking enforcement of Proposition 65 or Business & Profession Code §17200 against Central.

**6. Severability.** In the event that any of the provisions of this Agreement are ultimately held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

**7. Attorney's Fees.** Unless otherwise noted, in the event that a dispute arises with respect to any provision(s) of this Agreement (including, but not limited to, disputes arising from the payments to be made under this Agreement), the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

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**8. Governing Law.** The terms of this Agreement shall be governed by the laws of the State of California.

**9. Notices.** All correspondence to Michael DiPirro shall be mailed to:

Gregory M. Sheffer  
Sheffer & Chanler  
4400 Keller Ave., Suite 200  
Oakland, CA 94605  
(510) 577-0747

All correspondence to Central shall be mailed to:

Marc Friedman, Esq.  
Harbor Freight Tools  
3491 Mission Oaks Blvd.  
Camarillo, CA 93011  
(805) 388-1000

**10. Compliance With Reporting Requirements (Health & Safety Code §25249.7(f)).** Counsel for DiPirro shall comply with that section by submitting the required reporting form to, and serving a copy of this Agreement on, the California Attorney General's Office.

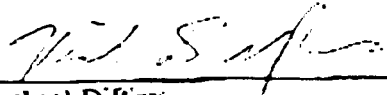
**11. Counterparts and Facsimile.** This Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**12. Authorization.** The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

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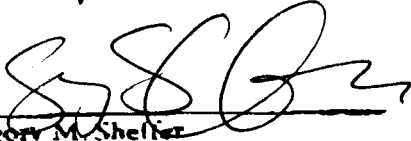
AGREED TO:

DATE: July 2, 2002

  
\_\_\_\_\_  
Michael DiPirro  
PLAINTIFF

APPROVED AS TO FORM:

DATE: July 11 2002

  
\_\_\_\_\_  
Gregory M. Shelton  
Attorneys for Plaintiff  
MICHAEL DIPIRRO

AGREED TO:

DATE: \_\_\_\_\_

\_\_\_\_\_  
CENTRAL PURCHASING  
DBA HARBOR FREIGHT TOOLS  
DEFENDANT

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Marc Friedman  
Attorneys for Defendant  
CENTRAL PURCHASING  
DBA HARBOR FREIGHT TOOLS

SETTLEMENT AGREEMENT

**AGREED TO:**

DATE: \_\_\_\_\_

\_\_\_\_\_  
Michael DiPirro  
PLAINTIFF

**APPROVED AS TO FORM:**

DATE: \_\_\_\_\_

\_\_\_\_\_  
Gregory M. Sheffer  
Attorneys for Plaintiff  
MICHAEL DIPIRRO

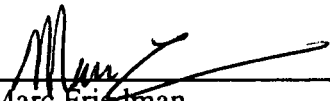
**AGREED TO:**

DATE: July 3, 2002

  
\_\_\_\_\_  
CENTRAL PURCHASING  
DBA HARBOR FREIGHT TOOLS  
DEFENDANT

**APPROVED AS TO FORM:**

DATE: July 3, 2002

  
\_\_\_\_\_  
Marc Friedman  
Attorneys for Defendant  
CENTRAL PURCHASING  
DBA HARBOR FREIGHT TOOLS

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**EXHIBIT A**

**Brass Instruments, Brass and Brass-Faced Hammers and other Brass Products**

[See attached list]

**SETTLEMENT AGREEMENT**



## BRASS

6.27/02

RB	SKU	DESCRIPTION	Y
MW	626	COUPLER-5 PC BRASS SET	Y
MW	1460	HAMMER & DRIVER SET-BRASS	
MW	1565	BRASS PUNCH SET 2 PC	Y
J4	1737	HAMMER-MULTIPURPOSE BRASS	
JK	31811	BRASS HOSE NOZZLE-4"	
JH	31929	CALIPER-4" BRASS	
JK	33201	HOSE NOZZLE-BRASS	
A2	34265	COLLET 5C (EMERGENCY-BRASS)	Y
JK	34698	COUPLER-1/4" BRASS 5PK	
JK	34699	COUPLER-1/4" BRASS 5PK	
JK	34700	COUPLER-1/4" BRASS 5PK	
JK	34701	COUPLER-1/4" BRASS 5PK	
JK	34704	COUPLER PLUGS-BRASS 5 PK	
MN	36715	SCALE-BRASS GRAMS	
BF	37038	PUNCH SET-BRASS 2 PC	
BF	37039	CALIPER-4" BRASS POCKET	
MN	37243	CASTERS/SOLID BRASS, PAIR 3/4"	Y
MN	37337	LAMP, SOLID BRASS YACHT	Y
MN	38216	PLUMB BOB-BRASS 8OZ	
MN	38218	HORN-TAXI BRASS	
JH	39088	SEXTANT 7" MARINE; BRASS	
MN	39271	SURVEYORS TOOL, BRASS(ANTIQUE)	Y
MW	39720	WIRE BRUSH-BRASS	
A2	39735	EXTENSION MIRROR POL.BRASS	Y
KM	40404	BRASS DETAIL BRUSH(4"X9")	
KM	40441	BRASS DETAIL BRUSH(1-3/8"X7")	
L4	40825	HAMMER, BRASS HEAD 1LB	Y
BF	41571	PUNCH SET, BRASS - 2 PC.	
MN	41752	BELL, CAPTAIN'S TABLETOP BRASS	Y
MN	41755	CLOCK, PORTHOLE BRASS/WOOD	Y
DH	41784	HAMMER, COMB BRASS FACE/DEADBLO	
JH	41877	BELL-BRASS CASTING	
JH	41886	WELCOME HANGER-BRASS CASTING	
DH	41920	PUNCH, BRASS 12" JUMBO	
DH	41976	PUNCHES, PIN BRASS, 6PC SET	
DH	41998	HAMMER BRASS 1LBS W/HICKORY	
DH	42000	HAMMER BRASS 2LBS W/HICKORY	
MN	42129	TELESCOPE, MINI/BRASS PLATED	Y
MN	42168	TELESCOPE, LARGE/BRASS PLATED	Y
GG	42273	CLOCK-SHIP WHEEL, WOODEN/BRASS	
A2	42351	BRASS UMBRELLA HOLDER	Y
CY	42352	KEY CHAIN TELESCOPE-BRASS	Y
CY	42433	COMPASS-BRASS(LARGE)	
JK	42444	5 PC. QUICK COUPLER BRASS SET	
MN	42517	HOUSE DECO-MOON, BRASS-20"	
MN	42518	HOUSE DECO-SUN, BRASS 20"	
BF	42713	BEVEL FINDER, SOLID BRASS	
KB	42842	WISE PRECISION BRASS 1-9/16"	Y
KB	42844	WISE, PRECISION, BRASS; 10-7/8"L	Y
MN	43216	PEPPER MILL-BRASS	
JH	43372	KEY HANGER W/5 HOOKS, BRASS	
JH	43373	WEATHER VANE, HORSE, BRASS	
JH	43374	WEATHER VANE, EAGLE, BRASS	
KB	43441	PLANTERS 4PC BRASS/ANTIQUE GRN	Y
KB	43443	HORN, CURVED BRASS	Y
DH	43571	PUNCH SET, 3PC. BRASS	
GG	43808	BELL, DINING; BRASS	Y
NC	44734	GAS WLDNG ROD, BARE BRASS 3/32"	
NC	44735	GAS WLDNG ROD, BARE BRASS 1/8"	
GG	45083	BRASS DEPTH GAUGE	
CB	45769	BOOK END, EAGLE, PAIR, BRASS/WOOD	

## BRASS

6/27/02

RB	SKU	DESCRIPTION	Y
GG	45993	BRASS PAPER CLIP, PAIR	Y
ST	46025	THERMOMETER, SOLID BRASS	
KB	46110	WIND CHIME, BRASS HEARTS	Y
KB	46111	WIND CHIME, BRASS PIPES	
RF	46117	4-WAY BRASS WATER HOSE ADAPTER	
ST	46303	SNAP HOOK, 3 1/2", BRASS	
GG	46387	SCALE, COUNTER BALANCE BRASS	
GR	46999	ADAPTOR, (2PC) BRASS	
R2	47175	VALVE-GATE 1/2" THREADED BRASS	
R2	47178	VALVE-GATE 3/4" THREADED BRASS	
R2	47179	VALVE-GATE 1" THREADED BRASS	
R2	47195	VALVE-BALL 1/2" THREADED BRASS	
R2	47198	VALVE-BALL 3/4" THREADED BRASS	
R2	47199	VALVE-BALL 1" THREADED BRASS	
ST	47334	SYPHON, JIGGLER, BRASS	
GG	47651	SHOEHORN, BRASS	
ST	47657	CONNECTOR, 4-WAY, BRASS W/SWWL	
GR	47936	WIRE WHEEL, 6" BRASS CRIMPED	
J4	70442	MULTI PRP BRASS HAMMER (1737)	Y
MN	70938	LAMP, SOLID BRASS YACHT (37337)	