

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement ("Release") is entered into between Michael DiPirro, a California citizen acting on behalf of the People of the State of California, and Hobby Lobby International, Inc., a Tennessee corporation (hereinafter "Hobby Lobby"), as of January 19, 2001 (the "Effective Date").

WHEREAS:

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

B. Hobby Lobby manufactured or distributed in the State of California certain products that contain chemicals listed pursuant to Proposition 65 (California Health & Safety Code §§25249.5 *et seq.*).

C. The products that contain one or more of the chemicals listed pursuant to Proposition 65 and which are covered by this Agreement are set forth in Exhibit A (the "Products"), which is attached hereto and incorporated herein by this reference.

D. By notice dated August 4, 2000 DiPirro first served Hobby Lobby and all of the requisite public enforcement agencies a document entitled "60-Day Notice" which provided Hobby Lobby and such public agencies with notice that Hobby Lobby was allegedly in violation of Health & Safety Code § 25249.6 for failing to warn purchasers that the Products exposed users to certain Proposition 65-listed chemicals;

E. On October 20, 2000, DiPirro filed a complaint entitled Michael DiPirro v. Hobby Lobby International, Inc. (No. H216082-1) in the Superior Court in and for the County of Alameda, naming Hobby Lobby as a defendant and alleging violations of Business & Professions Code §17200 *et seq.* and Health & Safety Code §25249 *et seq.* on behalf of individuals in California who may have been exposed to certain chemicals listed pursuant to Proposition 65 contained in certain Hobby Lobby products. Hobby Lobby filed its answer to the complaint on November 30, 2000.

F. Hobby Lobby denies the material factual and legal allegations contained in the 60-Day Notice and the Complaint filed by DiPirro for alleged violations of Proposition 65 and

Business & Professions Code §§17200 *et seq.*, and maintains that all Products manufactured and/or distributed by Hobby Lobby in California are in compliance with all laws.

NOW THEREFORE, in consideration of the promises, covenants and agreements herein contained and for other consideration, the sufficiency and adequacy of which is hereby confirmed by the parties who intend to be legally bound hereby, it is agreed as follows:

1. **Future Sales of Covered Products.** Hobby Lobby agrees that any Covered Products that it distributes or sells into California after March 1, 2001 will either not contain lead as an intended ingredient or will contain the labeling set forth in Paragraph 2.

2. **Product Labeling.** If Hobby Lobby distributes or sells into California any Covered Products after March 1, 2001, Hobby Lobby shall revise the product or packaging labels for those Covered Products consistent with this Release (“Revised Labels”). For purposes of this Release, “Covered Products” includes all products listed on Exhibit A hereto, and any other substantially similar products which may be manufactured and/or distributed by Hobby Lobby in California after the Effective Date which now or in the future contain Listed Chemicals. For purposes of this Release, “Listed Chemicals” means chemicals that are currently or may, in the future, be listed pursuant to Proposition 65. Hobby Lobby shall use reasonable efforts to ensure that all Covered Products in its possession intended for distribution or sale in California are packaged or sold using Revised Labels as soon as commercially reasonable; however, Hobby Lobby agrees that as of March 1, 2001 (the “Revised Label Compliance Date”) Hobby Lobby shall not knowingly ship (or cause to be shipped) to California for sale or distribution any Covered Products unless each such Covered Product is accompanied by a Revised Label on or within the Covered Product package or affixed to Covered Products as set forth below or an equivalent warning that complies with Section 12601 of Title 22 of the California Code of Regulations:

“WARNING: This product contains lead, a chemical known to the State of California to cause cancer and birth defects (or other reproductive harm).

The warning statement shall be prominent and displayed with such conspicuousness, as compared with other words, statements, or designs, as to render it likely to be read and reasonably understood by an ordinary individual under customary conditions of purchase or use. For purposes of this Release, “Revised Label” does not include an MSDS form that otherwise meets the requirements of Paragraph 2. The labeling revisions may be made in the form of an adhesive sticker, stamp or permanent changes to the outside packaging of the product package.

3. **Deemed Compliance.** Any New Products (as defined in this Paragraph 3) manufactured, distributed and/or sold by Hobby Lobby after the Revised Label Compliance Date shall be deemed to comply with the provisions of this Release and the requirements of Proposition 65 with respect to product warnings if they are accompanied by Revised Labels as set forth in Paragraph 2 of this Release. For purposes of this Release, "New Products" shall include any Products that are substantially similar to those included in Exhibit A which contain a Listed Chemical and which were not manufactured, distributed and/or sold by Hobby Lobby into California on or before the Effective Date.

4. **Civil Penalty.** Hobby Lobby shall, pursuant to Health & Safety Code § 25249.7(b), pay a civil penalty of \$400 to DiPirro within ten (10) calendar days of the Effective Date. 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. This payment shall be made payable to the "Chanler Law Group in Trust for Michael DiPirro" and shall be held in escrow by DiPirro's counsel until the Court has approved this settlement and issued the Order as set forth in Paragraph 11. It is specifically understood and agreed that DiPirro shall bear all responsibility for apportioning and paying to the State of California the appropriate civil penalties paid in accordance with this paragraph. In the event the Court rejects this settlement and fails to issue the Order as set forth in Paragraph 11, the payment made pursuant to this paragraph shall be returned to Hobby Lobby, with interest thereon at a rate of six percent (6%) per annum, within five (5) days of receipt of notice of the Court's rejection of the settlement and proposed Order.

5. **Reimbursement of Fees and Costs.** The parties acknowledge that DiPirro offered to resolve the dispute without reaching terms on the amount of fees and costs to be reimbursed, thereby leaving this open issue to be resolved after the material terms of the agreement had been reached, and the matter settled. Hobby Lobby then expressed a desire to resolve the fee and cost issue concurrently with other settlement terms, so the parties reached an accord on the compensation due to DiPirro and his counsel under the private attorney general doctrine codified at California Code of Civil Procedure Section 1021.5.

Hobby Lobby shall reimburse DiPirro for his fees and costs, incurred as a result of investigating, bringing this matter to Hobby Lobby's attention, litigating and negotiating a settlement in the public interest. Hobby Lobby shall within ten (10) calendar days of the Effective Date of the Release, pay to DiPirro the sum of \$4,600 for his investigation, expert, attorneys' and paraprofessional fees and costs incurred in this matter. The \$4,600 amount shall

be made payable to the “Chanler Law Group” and held in escrow by DiPirro’s counsel until the Court has approved this settlement and issued an Order as set forth in Paragraph 11. In the event the Court rejects this settlement and fails to issue the Order as set forth in Paragraph 11, the amounts paid by Hobby Lobby in accordance with this paragraph shall be returned to Hobby Lobby with interest thereon at a rate of six percent (6%) per annum, within five (5) days of receipt of notice of the Court’s rejection of the settlement and proposed Order. -

6. DiPirro’s Release of Hobby Lobby. In further consideration of the promises and agreements herein contained, and for the payment to be made pursuant to Paragraph 5, DiPirro, by this Release, on behalf of himself, his agents, representatives, attorneys, and/or assignees, and the People of the State of California on whose behalf this action was brought, hereby waives all rights to institute and participate in, directly or indirectly, any form of legal action and releases all claims, including, without limitation, all actions, causes of action, in law or in equity, suits, liabilities, demands, damages, fines, penalties, losses or expenses (including investigation fees, expert fees and attorneys’ fees and other costs) of any nature whatsoever, whether known or unknown, fixed or contingent, (collectively, “Claims”) against Hobby Lobby and its parent and affiliated companies, divisions, subdivisions, subsidiaries (and the predecessors, successors and assigns of any of them) and their respective officers, directors, attorneys, representatives, shareholders, partners, agents, and employees (collectively, “Hobby Lobby Releasees”). This waiver and release shall pertain to Claims arising under Proposition 65 or Business & Professions Code §§17200 *et seq.*, related to Hobby Lobby's alleged failure to warn about exposures on or before the Effective Date to certain Listed Chemicals contained in any of the Covered Products listed in Exhibit A. It is specifically understood and agreed that Hobby Lobby's compliance with the terms of this Release resolves all issues and liability, now and in the future, concerning the Hobby Lobby Releasees’ past compliance with the requirements of Proposition 65 or Business and Professions Code §§17200 *et seq.*, arising from Hobby Lobby's alleged failure to comply with Proposition 65 in connection with the Covered Products listed on Exhibit A occurring on or before the Effective Date.

7. DiPirro’s Release of “Downstream Parties.” DiPirro, on behalf of himself, his agents, and/or assignees and the People of the State of California on whose behalf this action was brought, further waives all rights to institute any form of legal action and releases all Claims against each distributor, wholesaler, retailer, dealer, customer, owner, operator, lessor, lessee or user of the Covered Products, or any of their respective parent and affiliated companies, divisions, subdivisions, subsidiaries (and the predecessors, successors and assigns of any of them) and their respective officers, directors, shareholders, partners, attorneys, representatives,

agents, employees (collectively, “Downstream Parties”). This waiver and release shall pertain to Claims arising under Proposition 65 or Business & Professions Code §§17200 *et seq.*, related to the Downstream Parties’ alleged failure to warn about exposures on or before the Effective Date to Listed Chemicals contained in, or which are likely to be produced in fumes or gases resulting from the customary use or application of, Covered Products listed in Exhibit A. It is specifically understood and agreed that this Release resolves all issues and liability concerning the Downstream Parties’ past compliance with the requirements of Proposition 65 or Business & Professions Code §§17200, *et seq.*, arising from Hobby Lobby's or the Downstream Parties’ alleged failure to comply with Proposition 65 in connection with the Covered Products on or before the Effective Date.

8. Hobby Lobby Release. Hobby Lobby, by this Release, waives all rights to institute any form of legal action against DiPirro, and his attorneys or representatives, for all actions taken or statements made on or before the Effective Date by DiPirro, and his attorneys or representatives, in the course of seeking enforcement of Proposition 65 or Business & Professions Code §§17200, *et seq.* against Hobby Lobby.

9. Product Characterization. Hobby Lobby acknowledges that each of the Covered Products listed in Exhibit A contains one or more substances known to the State of California to cause cancer or birth defects (or other reproductive harm). In the event that Hobby Lobby obtains analytical, risk assessment or other data (“Exposure Data”) that shows that an exposure to any or all Covered 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), Hobby Lobby shall provide DiPirro with 90 days prior written notice of its intent to limit or eliminate the warning provisions under this Release based on the Exposure Data and shall provide DiPirro with all such supporting Exposure Data. Within thirty (30) days of receipt of Hobby Lobby's Exposure Data, DiPirro shall provide Hobby Lobby with written notice of his intent to challenge the Exposure Data (in the event that he chooses to make such a challenge). If DiPirro fails to provide Hobby Lobby written notice of his intent to challenge the Exposure Data within thirty (30) days of receipt of Hobby Lobby's notice and the Exposure Data, DiPirro shall waive all rights to challenge the Exposure Data, and Hobby Lobby shall be entitled to limit or eliminate the warning provisions required under this Release with respect to those Covered Product(s) to which the Exposure Data applies. If DiPirro timely notifies Hobby Lobby of his intent to challenge the Exposure Data, DiPirro and Hobby Lobby 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 DiPirro of such notice of challenge, DiPirro and Hobby Lobby agree to submit such

challenge to the Court for determination, pursuant to the Court's continuing jurisdiction of this matter under California Code of Civil Procedure §664.6 and this Release. The prevailing party shall be entitled to reasonable attorneys' fees and costs associated with such a determination. If DiPirro does not challenge Hobby Lobby's notice or the Court determines that no warning is required for particular Covered Products, Hobby Lobby shall no longer be required to provide the warnings described in this Release for those Covered Products.

10. Hobby Lobby's Covered Product Information. Hobby Lobby understands that the Covered Product sales (and other) information provided to counsel for DiPirro by Hobby Lobby was a material factor upon which DiPirro has relied to determine a fair and reasonable settlement as set forth in this Release. To the best of Hobby Lobby's knowledge, the information provided is true and accurate. In the event DiPirro discovers facts which demonstrate to a reasonable degree of certainty that the information is materially inaccurate, all other parts of this Release notwithstanding, DiPirro shall have the right to rescind this Release and re-institute an enforcement action against Hobby Lobby, provided that all sums paid by Hobby Lobby pursuant to Paragraph 5 are returned to Hobby Lobby, with interest thereon at a rate of six percent (6%) per annum, within five (5) days from the date on which DiPirro notifies Hobby Lobby of his intent to rescind this Release. In such case, all applicable statutes of limitation shall be deemed tolled for the period between the date DiPirro filed the instant action and the date DiPirro notifies Hobby Lobby that he is rescinding this Release pursuant to this paragraph, provided that, in no event shall any statute of limitation be tolled beyond four (4) years from the date this action was filed.

11. Stipulated Judgment and Order. The parties shall file a Stipulated Judgment to be approved pursuant to California Code of Civil Procedure Section 664.6 by the Alameda County Superior Court in accordance with the terms of this Release. It is expressly understood and agreed by the parties hereto that the rights and obligations contained in this Release are expressly conditioned on the issuance by the Court of an Order approving the Stipulated Judgment. If the Court fails to issue such Order within sixty (60) days of the Effective Date, this Release shall be deemed null and void as of the sixty-first (61st) day after the Effective Date.

12. Severability. In the event that any of the provisions of this Release are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected thereby.

13. Attorneys' Fees. In the event that a dispute arises with respect to any provision(s) of this Release, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

14. Governing Law. The terms of this Release shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Products specifically, Hobby Lobby shall have no further obligations pursuant to this Release with respect to, and to the extent that, those Covered Products are so affected.

15. Notices. All correspondence and notices required to be provided pursuant to this Release shall be in writing and shall be personally delivered or sent by first-class, registered, certified mail, overnight courier, and/or via facsimile transmission (with presentation of facsimile transmission confirmation) addressed as follows:

If to DiPirro: Chanler Law Group
Magnolia Lane
New Canaan, Connecticut 06840-3801
(Fax) 203/801-5222

If to Hobby Lobby: James B. Martin
Secretary
Hobby Lobby International, Inc.
5614 Franklin Pike Circle
Brentwood, Tennessee 37027
(Fax) 615-377-6948

with a copy to: John E. Dittoe, Esq.
Crosby, Heafey, Roach & May
1999 Harrison Street
P.O. Box 2084
Oakland, CA 94604-2084
(Fax) 510/273-8832

Either party, from time to time, may specify a change of address or facsimile number to which all notices and other communications shall be sent.

16. No Admissions. Nothing in this Release shall constitute or be construed as an admission by Hobby Lobby of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Release constitute or be construed as an admission by Hobby Lobby of any fact, finding, conclusion, issue of issue of law, or violation of law, such being specifically denied by Hobby Lobby. Hobby Lobby reserves all of its rights and defenses with regard to any

claim by any party under Proposition 65 or otherwise. However, this Paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of Hobby Lobby under this Release.

17. Entire Agreement; Modification. This Release, together with the exhibits hereto which are specifically incorporated herein by this reference, constitutes the entire agreement between the parties relating to the rights and obligations herein granted and assumed, and supersedes all prior agreements and understandings between the parties. This Release may be modified only upon the written agreement of the parties. To the extent any such modification is made to this Release that also requires modification of the Stipulated Judgment provided for herein, the parties shall cooperate in modifying the Stipulated Judgment submitted to the Court.

18. Counterparts & Facsimile Signatures. This Release may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

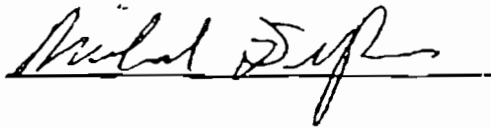
19. Compliance With Reporting Requirements. The parties shall cooperate in complying with the reporting requirements set forth in Health & Safety Code §25249.7(f). If, as of the Effective Date, a form approved by the Attorney General's Office is available for use, such form shall be promptly completed and then sent to the California Attorney General's Office, along with this Release, by certified mail, return receipt requested. If a form approved by the Attorney General's office is not available as of the Effective Date, Hobby Lobby shall promptly send this Release to the California Attorney General's Office by certified mail, return receipt requested, along with a cover letter stating that: "The attached Release and Settlement Agreement is provided to you pursuant to Health & Safety Code §25249.7(f)." Exhibit B attached hereto contains a statement by counsel for Hobby Lobby that, consistent with this Paragraph 19, the Release is being submitted concurrently to the California Attorney General's Office with its presentation to the Alameda County Superior Court.

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

AGREED TO:

DATE: January 20, 2001

MICHAEL DIPIRRO



AGREED TO:

DATE: January __, 2001

HOBBY LOBBY INTERNATIONAL, INC
A Tennessee corporation

By: _____
James B. Martin
Secretary

AGREED TO:

DATE: January ____, 2001

MICHAEL DIPIRRO

AGREED TO:

DATE: January 25, 2001

HOBBY LOBBY INTERNATIONAL, INC
A Tennessee corporation


By: 
James B. Martin
Secretary

Exhibit A

EXHIBIT A – HOBBY LOBBY INTERNATIONAL, INC.

Lead weights and lead balancing products
Solder

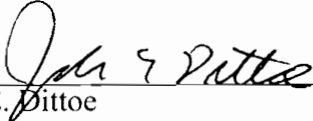
Exhibit B

EXHIBIT B

As counsel for Hobby Lobby International, Inc. in the matter of Michael DiPirro v. Hobby Lobby International, Inc. Alameda County Superior Court No. H-216082-1, the undersigned hereby represents that this Release and Settlement Agreement was sent to the California Attorney General's Office by certified mail, return receipt requested, on January 30 2001.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 30, 2001.



John E. Pittoe
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Hobby Lobby International, Inc.