

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between Michael DiPirro, a California citizen, and HomeBase, Inc. ("HomeBase"), a California corporation, as of July 10, 2000 (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 and industrial products;

B. HomeBase is a company that currently distributes and/or sells anchoring, floor repair products as set forth in Exhibit A that allegedly contain one or more substances known to the State of California to cause cancer and birth defects (or other reproductive harm);

C. A list of the products which allegedly contain lead or toluene (the "Listed Chemicals") and which are covered by this Agreement is provided in Exhibit A (the "Products"). The Products have been manufactured, distributed and sold by HomeBase for use in California since at least August 4, 1995; and

D. On August 4, 1999, Michael DiPirro first served HomeBase and other public enforcement agencies with a document entitled "60-Day Notice of Violation" which provided HomeBase and such public enforcers with notice that HomeBase was allegedly in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain products it sells in California expose users to Proposition 65-listed chemicals; and

E. On October 12, 1999, Michael DiPirro filed a complaint entitled Michael DiPirro v. HomeBase, Inc. in the Alameda County Superior Court (the "Complaint"), naming HomeBase as a defendant and alleging violations of Business & Professions Code §17200 and Health & Safety Code §25249.6 on behalf of individuals in California who allegedly have been exposed to chemicals listed pursuant to Proposition 65 contained in certain HomeBase products.

F. In order to avoid the expense of continual litigation, DiPirro and HomeBase have determined to settle the claims that are or could have been raised in the Complaint based on the facts alleged therein. Nothing in this Agreement shall be construed as an admission by HomeBase 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 HomeBase 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 HomeBase under this Agreement.

NOW THEREFORE, MICHAEL DIPIRRO AND HOMEBASE AGREE AS FOLLOWS:

1. Product Warnings. HomeBase agrees that as of the Effective Date of this Agreement, it shall not sell (or cause to be sold on its behalf) any of the lead anchor Products manufactured or packaged by Star Elgen for sale or use in the State of California unless such Products comply with section 1.1 below:

1.1 For all Products containing lead (or lead compounds), such Products shall bear the following warning statement on the Product label or on a placard positioned adjacent to the Product where the Product is being displayed for sale:

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

or

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

The warning statement shall be prominently placed upon the Product's label with such conspicuousness, as compared with other words, statements, designs or devices on the label as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use. This obligation to stop selling the Products or to warn extends only to lead anchor products manufactured by Star Elgen. This Agreement does not obligate HomeBase to issue warnings for any other Products.

2. Payment Pursuant To Health & Safety Code §25249.7(b). Pursuant to Health & Safety Code §25249.7(b), HomeBase shall pay a civil penalty of \$2,000. The payment of \$2,000 shall be paid within fifteen (15) calendar days after the Effective Date of this Agreement. The penalty payments are to be made payable to "Chanler Law Group 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. 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. HomeBase then expressed a desire to resolve the fee and cost issue concurrently with other settlement terms, so the parties tried to reach an accord on the compensation due to DiPirro and his counsel under the private attorney general doctrine codified at C.C.P. §1021.5.

HomeBase shall reimburse DiPirro for his fees and costs, incurred as a result of investigating, bringing this matter to HomeBase's attention, litigating and negotiating a settlement in the public interest, in the amount of \$13,000. HomeBase agrees to pay this amount within fifteen (15) days of the Effective Date of the Agreement. Payment should be made payable to the "Chanler Law Group".

4. Michael DiPirro's Release Of HomeBase. Michael DiPirro, by this Agreement, on behalf of himself, his agents, representatives, attorneys, assigns and the citizens of the State of California, 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 HomeBase and its distributors, retailers, customers, directors, officers, employees, affiliates, successors and assigns, whether under Proposition 65 or the Business & Profession Code §17200 et seq. based on the facts alleged in the complaint and/or on HomeBase's failure to warn about exposure to the lead or toluene allegedly contained in any of the Products.

5. HomeBase's Release Of Michael DiPirro. HomeBase, by this Agreement, waives all rights to institute any form of legal action against Michael DiPirro and 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 HomeBase with regard to the Products.

6. Waiver of the Provisions of the California Civil Code, Section 1542. DiPirro, on behalf of himself, his agents, representatives, attorneys, successors and assigns, and *not* in his representative capacity on behalf of citizens of the State of California, and HomeBase, hereby waive the provision of the California Civil Code, Section 1542, which provides as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which is known by him, must have materially affected his settlement with the debtor."

7. Stipulated Judgment. Concurrently with the execution of this Agreement, Michael DiPirro and HomeBase shall execute and file a stipulated judgment to be approved pursuant to C.C.P. §664.6 by the Alameda County Superior Court in accordance with the terms of this Agreement. If, for any reason, the stipulated judgment is not approved by the Court, this Agreement shall be deemed null and void. If the agreement is deemed null and void, DiPirro and the Chanler Law Group shall return any monies paid to them by HomeBase within 15 days of the Court's failure to approve the stipulated judgment.

8. HomeBase Sales Data. HomeBase understands that the sales data provided to counsel for DiPirro by HomeBase was a material factor upon which DiPirro has relied to determine the amount of payments made pursuant to Health & Safety Code §25249.7(b) in this Agreement. To the best of HomeBase's knowledge, the sales data provided is true and accurate. In the event that DiPirro discovers facts which demonstrate to a reasonable degree of certainty that the sales data is materially inaccurate, the parties shall meet in a good faith attempt to resolve the matter within fifteen (15) days of HomeBase's receipt of notice from DiPirro of his intent to challenge the accuracy of the sales data. If this good faith attempt fails to resolve DiPirro's concerns, DiPirro shall have the right to rescind the Agreement and re-institute an enforcement action against HomeBase, provided that all sums paid by HomeBase pursuant to paragraphs 2 and 3 are returned to HomeBase within ten (10) days from the date on which DiPirro notifies HomeBase of his intent to rescind this Agreement. 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 HomeBase that he is rescinding this Agreement pursuant to this Paragraph.

9. Product Characterization. HomeBase acknowledges that Plaintiff alleges that the customary use or application of the Products is likely to expose users to lead a substance known to the State of California to cause cancer and birth defects (or other reproductive harm). In the event that HomeBase obtains analytical, risk assessment or other data ("Exposure Data") that shows an exposure to the Star Elgen 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) and HomeBase seeks to eliminate the warnings required hereunder for any sale of Star Elgen Products, then HomeBase shall provide DiPirro with ninety (90) days prior written notice of its intent to limit or eliminate the warning provisions under this Agreement based on the Exposure Data and shall provide DiPirro with all such supporting Exposure Data. Within ninety (90) days of receipt of HomeBase Exposure Data, DiPirro shall provide HomeBase 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 HomeBase written notice of his intent to challenge the Exposure Data within ninety (90) days of receipt of HomeBase's notice and the Exposure Data, DiPirro shall waive all rights to challenge the Exposure Data, and HomeBase shall be entitled to limit or eliminate the warning provisions required under this Agreement with respect to those Product(s) to which the Exposure Data applies. If DiPirro timely notifies HomeBase of his intent to challenge the Exposure Data, DiPirro and HomeBase (a) may stop its efforts to eliminate the warnings upon notice to DiPirro with no further liability or obligations or (b) shall negotiate in good faith for a period not to exceed thirty (30) days following receipt of HomeBase's notice to attempt to reach a settlement of this issue. If a settlement is not reached, DiPirro and HomeBase agree to submit such challenge to the superior court for determination, pursuant to the court's continuing jurisdiction of this matter under C.C.P. §664.6 and this Agreement. The prevailing party shall be entitled to reasonable attorneys' fees and costs associated with bringing a motion brought under this paragraph to the court for determination. Notwithstanding the foregoing, in the event that HomeBase is no longer

required to provide the warnings provided for herein under applicable law, regulation or court order, then HomeBase may discontinue the warnings with no further liability or obligations to the extent that new law, regulation or court order provides.

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

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

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

13. Notices. All correspondence to Michael DiPirro shall be mailed to:

Hudson Bair, Esq.
Kapsack & Bair, LLP
1440 Broadway, Suite 610
Oakland, CA 94612
(510) 645-0027

or

Clifford A. Chanler, Esq.
Chanler Law Group
Magnolia Lane (off Huckleberry Hill)
New Canaan, CT 06840-3801
(203) 966-9911

All correspondence to HomeBase shall be mailed to:

Michael J. Steel, Esq.
Pillsbury, Madison & Sutro LLP
50 Fremont Street, 5th Floor
San Francisco, CA 94105
(415) 983-1000

14. Compliance With Reporting Requirements. The parties agree to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f). As of the Effective Date, the California Attorney General's reporting forms are not available. HomeBase represents, however, that its counsel will send a copy of this Agreement to the

California Attorney General's Office prior to or concurrently with the presentation of the stipulated Judgment to the Alameda County Superior Court.

15. **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.

16. **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.

AGREED TO:

AGREED TO:

DATE: _____

DATE: 7/13/00

Michael DiPirro
PLAINTIFF



HomeBase, Inc.
DEFENDANT

California Attorney General's Office prior to or concurrently with the presentation of the Stipulated Judgment to the Alameda County Superior Court.

15. 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.

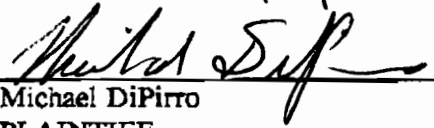
16. Authorization. The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

AGREED TO:

AGREED TO:

DATE: 7/12/00

DATE: _____


Michael DiPirro
PLAINTIFF

HomeBase, Inc.
DEFENDANT

Exhibit A

EXHIBIT A

1. Star Elgen Lead Anchors
2. Colorfill Floor Repair