

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between Michael DiPirro, a California citizen, and The Oatey Company, an Ohio corporation ("Oatey"), as of November __, 1999. The parties agree to the following terms and conditions:

WHEREAS:

A. Michael 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 (or produced by) consumer and industrial products; and

B. Oatey is a corporation, headquartered in Cleveland, Ohio, which manufactures and/or distributes and/or sells products in the State of California that contain, or whose customary use and application are likely to produce fumes or gases which contain, certain chemicals listed pursuant to Proposition 65 (California Health & Safety Code §§25249.5 *et seq.*) ("listed chemicals");and

C. The products that contain, or whose customary use and application are likely to produce fumes or gases which contain, one or more of the listed chemicals and which are covered by this Agreement are set forth in Exhibit 1,2 and 3 (the "Products"). The Products have been manufactured and/or distributed and/or sold by Oatey for use in California since at least May 6, 1995; and

D. On May 6, 1999, Michael DiPirro first served Oatey and all of the requisite public enforcement agencies with a document entitled "60-Day Notice of Violation" which provided Oatey and such public enforcers with notice that Oatey 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 July 16, 1999, Michael DiPirro filed a complaint entitled Michael DiPirro v. Oatey Company, et al., (No. H208370-6) in the Alameda Superior Court, naming Oatey 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 listed chemicals contained in certain Oatey products,

or whose customary use and application are likely to have produced fumes or gases which contain such chemicals; and

F. Oatey at all times denied and denies the material factual and legal allegations contained in the 60-Day Notice and the Complaint. Nothing in this Agreement shall be construed as an admission by Oatey 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 Oatey 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 Oatey under this Agreement; and

G. DiPirro and Oatey wish to compromise, settle and satisfy all claims, demands and disputes between them related to any of the Products sold, distributed or otherwise provided to consumers in the State of California prior to the Effective Date, as defined below, and to bind themselves to the covenants of this Agreement.

NOW THEREFORE, MICHAEL DIPIRRO AND OATEY AGREE AS FOLLOWS:

1. **The "Effective Date" of This Settlement Agreement.** The "Effective Date" of this Settlement Agreement shall be the date upon which a Judgment Pursuant to Stipulation ("Stipulated Judgment") pursuant to Cal. Code Civ. Proc. Section 664.6, is entered by the Superior Court for the County of Alameda, in the matter entitled Michael DiPirro v. Oatey, Co. et al., Case No. H208370-6, which Stipulated Judgment shall contain the terms of this Settlement Agreement in the form required by the Superior Court.

2. **Product Warnings on Oatey Brand Products (Exhibit 1).** Oatey agrees that no later than the Effective Date, it shall not manufacture for sale or distribution, nor sell or distribute, in the State of California as an Oatey branded product any of the Products listed on Exhibit 1 unless each such Product is accompanied by a label on, or affixed to, the Product or its packaging with the following statement:

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

or

"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 at the point of sale with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual.

3. Product Warnings on Non-Oatey Brand Products (Including, But Not Limited To, Products On Exhibit 2). Oatey agrees that no later than the Effective Date or February 1, 2000, whichever date is later, it shall not manufacture for sale or distribution by, nor sell or distribute to, anyone in the state of California the Products listed on Exhibit 2, unless each such product is accompanied by a label on or affixed to the Product or its packaging with the following statement:

“WARNING: This product contains a chemical known to the state of California to cause cancer and birth defects or other reproductive harm;

or

“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 at the point of sale with such conspicuousness, as compared with other words, statements or designs as to render it likely to be read and understood by an ordinary individual.

4. Modifications to Product Warnings. In the event applicable California warning regulations are subsequently amended in a manner that requires a warning different than the warnings in paragraph 2 and 3 of this Settlement Agreement, Oatey will comply with the new warning requirements and, within 30 days of the change, shall notify DiPirro of the change.

5. Payment Pursuant To Health & Safety Code §25249.7(b). Pursuant to Health & Safety Code §25249.7(b), within five (5) business days of the Effective Date, or by December 15, 1999 whichever date is later, Oatey shall pay a civil penalty of \$18,000 by check 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.

6. Reimbursement of Fees and Costs. Within five (5) business days of the Effective Date of this Settlement Agreement, or December 15, 1999, whichever date is later, Oatey shall reimburse DiPirro for his investigation fees and costs, expert fees, attorneys fees and costs, and any other costs incurred as a result of investigating, bringing this matter to Oatey's attention, litigating and negotiating a settlement in the

public interest in the total amount of \$17,650. Payment shall be made by check payable to the "Chanler Law Group."

7. Settlement of Claims Relating to Rosin Core Solder Products

(Exhibit 3). The parties agree that DiPirro's May 6, 1999 Notice of Intent to Sue Letter placed Oatey and the governmental agencies noticed in the Letter on notice that DiPirro alleged that Oatey was in violation of Proposition 65 and Business and Professions Code Section 17200 *et seq* with respect to rosin core solder products manufactured by Oatey and distributed in California in connection with potential exposures to the Listed Chemical, formaldehyde. In full and complete settlement of any and all claims by DiPirro against Oatey with respect to failure to provide a Proposition 65 warning in connection with exposure to formaldehyde in Oatey's Products as listed in Exhibit 3, for the period January 1, 1995 through and including the 10-month anniversary of the Effective Date, Oatey agrees to the following:

a. No later than ten months after the Effective Date, Oatey shall provide the following warning on all products listed in Exhibit 3, or any other lead free, rosin core solder products manufactured by Oatey, to be sold or otherwise distributed in the State of California by Oatey, or anyone else on Oatey's behalf:

"WARNING: Use of this product exposes the user to formaldehyde, a chemical known to the State of California to cause cancer."

b. Oatey acknowledges that each of the products listed in Exhibit 3 may contain, or in the customary use or application of the Products may produce fumes or gases that contain, formaldehyde known to the state of California to cause cancer. In the event that Oatey obtains analytical data, risk assessment or other information from a nationally recognized toxicology research institute ("the Exposure Data") within ten months of the Effective Date which shows that an exposure to any of the Products listed in Exhibit 3 poses "no significant risk" as such standard is applicable and defined in Health & Safety Code Section 25249.10 c., Oatey shall within 30 calendar days of receipt of the Exposure Data, provide DiPirro with the Exposure Data, including all supporting documentation and test results on which the Exposure Data is based.

c. In the event that Oatey obtains the Exposure Data as defined in paragraph 7 b., above, within ten months of the Effective Date, which shows that an exposure to any of the Products listed in Exhibit 3 poses "no significant risk" as such standard is applicable and defined in Health & Safety Code Section 25249.10 c., Oatey shall not be obligated to provide the warning set forth in paragraph 7 a., above.

8. **DiPirro's Release Of Oatey.** DiPirro, by this Agreement, on behalf of himself, and on behalf of each of his employees, agents, representatives, attorneys, insurers, predecessors, successors, assignors and/or assignees, and the People of the State of California (in his representative capacity) (the "DiPirro Releasers") hereby irrevocably releases and forever discharges Oatey, independent sales' representatives working on Oatey's behalf, and all entities to whom Oatey, and/or Oatey's independent sales' representatives, sold or distributed the Products listed in Exhibits 1, 2 and 3, in California (the "Oatey Releasees") from January 1, 1995 through and including the Effective Date, of and from any and all actions, causes of actions, suits and liabilities, claims, civil penalties, restitution, fees, costs, demands and damages, at law or in equity, of any nature whatsoever, whether known or unknown, fixed or contingent, which the DiPirro Releasers have, or may have in the future, again the Oatey Releasees arising out of the Oatey Releasees' alleged violations of Proposition 65 and/or Business and Professions Code Sections 17200 *et seq* based on Oatey's alleged failure to provide a clear and reasonable warning concerning exposures with respect to lead, lead compounds and formaldehyde with respect to the Products listed in Exhibits 1, 2 and 3 distributed, sold or otherwise provided to consumers in any and all counties of California on or before the Effective Date. **This release, and the term "Oatey Releasees," expressly excludes Do It Best Corp. and shall not affect in any way the obligations undertaken by Do It Best Corp. in its settlements in Alameda Superior Court Case Nos. H208366-3 and H210410-2 with DiPirro. This release expressly excludes a waiver and release of any entity from whom Oatey may have acquired any of the Products or raw materials listed in Exhibits 1, 2 and 3.**

9. **Oatey's Release Of Michael DiPirro.** Oatey, by this Agreement, waives all rights to institute any form of legal action against 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 *et seq.* against Oatey.

10. **Stipulated Judgment.** Concurrently with the execution of this Agreement, DiPirro and Oatey shall execute and file a Stipulated Judgment to be approved pursuant to CCP §664.6 by the Alameda 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.

11. **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.

12. **Attorneys' Fees In The Event Of A Dispute.** 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.

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

14. Notices. All correspondence to DiPirro shall be mailed to:

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

All correspondence to Oatey shall be mailed to:

John C. Mueller
Kathleen E. Bailey
Baker & Hostetler LLP
600 Wilshire Boulevard
Los Angeles, CA 90017-3212
(213) 624-2400

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

16. Integration. The parties intend that this Agreement is the entire Agreement of the parties, and are not relying upon any representation or agreements not explicitly set forth herein.

17. 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: 11/29/99

DATE: _____

Michael D. Pirro
Michael D. Pirro
PLAINTIFF

Charles N. Bush
Vice President
The Oatey Company
DEFENDANT

17. **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: November 29, 1999

Michael DiPirro
PLAINTIFF

Charles N. Bush
Charles N. Bush
Vice President
The Oatey Company
DEFENDANT

EXHIBIT 1

Oatey Product Number:	Description:
53049	Spool Solder, Solid Wire
53034	Solder, Acid Core 1 ½ oz.
53035	Solder, Rosin Core
53041	Solder, Rosin Core; ½ oz.
53033	Solder, Solid Wire; 1 ½ oz.
53038	Solder, Acid Core
53039	Solder, Rosin Core
53037	Solder, Solid Wire
53050	Solder, Acid Core
53051	Solder, Rosin Core
53052	Solder, Solid Wire
53053	Solder, Solid Wire
53055	Solder, Rosin Core
53054	Solder, Acid Core
20015	Solder, 50/50 Wire, (10 per pkg.)
20019	Solder 50/50 Wire
21115	Solder, Acid Core
21212	Solder, Rosin Core
21305	Solder, 50/50 Bar (10 per pkg.)
50429	Solder, Acid Core, 40/60
50490	Solder, Wire, 50/50
50678	Solder, Rosin Core, 60/40
53010	Solder, Wire, 50/50
53011	Solder, 40/60 Acid Core
53012	Solder, 40/60 Rosin Core
53013	Hobby Solder Kit
53014	Solder, Wire, Spool
53015	Solder, Acid Core, Spool, .25 lb.
53016	Solder, Rosin Core, Spool, .25 lb.
50193	Solder, Acid Core, Spool, .50 lb.
50194	Solder, Rosin Core, Spool, .50 lb.
53023	Solder, 60/40 Rosin Core, .50 lb.

EXHIBIT 2

Do It Best Product No.	Oatey Product No.	
313805	53049	Spool Solder, Solid Wire
325936	53034	Solder, Acid Core 1 ½ oz.
326070	53035	Solder, Rosin Core
326089	53041	Solder, Rosin Core; ½ oz.
328103	53033	Solder, Solid Wire; 1 ½ oz.
330298	53038	Solder, Acid Core
330412	53039	Solder, Rosin Core
330476	53037	Solder, Solid Wire
333543	53050	Solder, Acid Core
333552	53051	Solder, Rosin Core
333561	53052	Solder, Solid Wire
356340	53053	Solder, Solid Wire
356359	53055	Solder, Rosin Core
356377	53054	Solder, Acid Core

EXHIBIT 3

Oatey Product No.:	Description:
53175	Lead Free, Rosin Core Solder, 1 oz.
53177	Lead Free, Rosin Core Solder, 4 oz.