

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into between Michael DiPirro, a California citizen acting on behalf of himself and the People of the State of California, and WASSCO, a California corporation. The effective date of this Agreement is July 1, 1999 (the "Effective Date").

RECITALS

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. WASSCO ("WASSCO") distributes and/or sells products in the State of California that contain, or whose customary use and application may produce fumes or gases which contain chemicals listed pursuant to Proposition 65 ("Listed Chemicals"). These products are collectively referred to as "Covered Products" and are the subject of this Agreement.

C. For purposes of this Agreement, "Covered Products" means all soldering consumables, soldering tools, soldering equipment, and chemicals used in the soldering process which may be distributed or sold in California, and which now or in the future contain, or whose customary use and application may produce fumes or gases that contain Listed Chemicals. For purposes of this Agreement, "Listed Chemicals" means any chemicals that are currently or may, in the future, be listed pursuant to Proposition 65. For the purposes of this Agreement, "Upstream Party" means any manufacturer, distributor or supplier of "Covered Products" to WASSCO in the chain of commerce.

D. Some of the Covered Products may have been distributed or sold by WASSCO for use in California on or after September 29, 1994.

E. By notice dated September 29, 1998, DiPirro first served WASSCO and the requisite public enforcement agencies with a document entitled "60-Day Notice" which provided WASSCO and such public agencies with notice that WASSCO was allegedly in violation of California Health & Safety Code § 25249.6 for failing to warn purchasers that certain products it distributes or sells in California expose users to certain Listed Chemicals.

F. On February 1, 1999, DiPirro filed a complaint entitled Michael DiPirro v. WASSCO, et al. (No. H 205538-9) in Alameda County Superior Court, naming WASSCO as a defendant and alleging violations of California Business & Professions Code 17200 et seq. and California Health & Safety Code § 25249.6 on

behalf of individuals in California who may have been exposed to certain Listed Chemicals in Covered Products allegedly distributed and/or sold by WASSCO ("Civil Action").

G. WASSCO 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 California Business & Professions Code §§ 17200 et seq. Nothing in this Agreement shall constitute or be construed as an admission by WASSCO of any fact, finding, conclusion, issue of law, or violation of law. Any compliance with this Agreement shall not constitute or be construed as an admission by WASSCO of any fact, finding, conclusion, issue of law or violation of law. Notwithstanding the above, this paragraph shall not diminish or otherwise affect the obligations, responsibilities and duties of WASSCO under this Agreement.

AGREEMENT

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

1. Covered Product Distribution.

WASSCO shall initiate efforts, subject to the terms of this Agreement, to sell and distribute Covered Products with a warning label that is "clear and reasonable" as contemplated under California Health & Safety Code § 25249.6 and regulations promulgated thereunder (hereafter, "Compliance Warning"). To the extent that manufacturers or suppliers of Covered Products sold or distributed by WASSCO in California provide Compliance Warnings for Covered Products, WASSCO shall exercise reasonable best efforts to ensure that the warning labels or other warning materials are provided to the purchaser of the Covered Products in the normal course of business.

Notwithstanding any term in this Agreement to the contrary, if, after July 1, 1999, WASSCO receives written notice from any party that a supplier to WASSCO of Covered Products is not providing Compliance Warnings for its Covered Products, then WASSCO will notify the supplier in writing of that fact and ask the supplier to check and confirm its compliance with Proposition 65. If sixty (60) days elapse after WASSCO's notice to the supplier without WASSCO's receipt of confirmation of the supplier's compliance with or detailed plans to comply with Proposition 65's warning requirements, within the next thirty (30) days, WASSCO shall, at its sole option, either (1) stop distributing and/or selling Covered Products provided by that supplier or (2) undertake to provide Compliance Warnings pursuant to Proposition 65 for the supplier's products in a manner to be reasonably agreed upon by WASSCO and the notifying party. If the

notifying party is not DiPirro, WASSCO agrees to provide DiPirro with a courtesy copy of the notice or written complaint.

2. MSDS Distribution.

If any purchaser of a Covered Product currently being distributed or sold by WASSCO requests a MSDS for a Covered Product, WASSCO shall, within five (5) business days of such request, provide such purchaser with a MSDS for that Covered Product to the extent that said MSDS is available from the manufacturer or supplier of the Covered Product. The parties recognize that not all Covered Products require MSDS.

3. Civil Penalty.

Because the Covered Products sold or distributed by WASSCO are supplied to WASSCO by manufacturers or suppliers, virtually all of whom have settled disputes under Proposition 65 relating to the Covered Products and the liability of WASSCO is subsumed and released in such settlements, WASSCO shall not pay any penalties pursuant to California Health & Safety Code § 25249.7(b).

4. Reimbursement of Fees and Costs.

Within ten (10) days of the Effective Date of this Agreement, WASSCO shall pay to DiPirro the following amounts: (1) \$9,000 for his investigation fees incurred prior to the filing of the 60-Day Notice; (2) \$700 for investigation, expert and litigation costs; and (3) \$200 for attorneys' and paraprofessional fees incurred in this matter. Such amounts shall be held in escrow by DiPirro's counsel until the Court in the CIVIL ACTION has approved this settlement and issued the Order described in Paragraph 9 below. In the event the Court rejects this agreement and fails to issue the Order described in Paragraph 9, the amounts paid by WASSCO in accordance with this paragraph shall be returned to WASSCO within five (5) days.

5. DiPirro's Release of WASSCO.

Michael DiPirro, by this Agreement, on behalf of himself, his agents, and/or assignees, and the People of the State of California on whose behalf this action was brought, hereby waives all rights to institute 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, losses, costs or expenses (including attorneys' fees and other costs) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively, "Claims") against WASSCO 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, agents and employees (collectively, "WASSCO Releasees"), related

to WASSCO's alleged failure to warn, under Proposition 65, about exposures before the Effective Date to certain Listed Chemicals contained in, or which may be produced in the use or application of, any Covered Products. It is specifically understood that WASSCO's compliance with the terms of this Agreement resolves all issues, now and in the future, concerning the WASSCO Releasees' past or current compliance with the requirements of Proposition 65, California Business & Professions Code § 17200 et seq., or any other Claims arising from WASSCO's alleged failure to comply with Proposition 65 in connection with the Covered Products on or before the Effective Date. It is Specifically understood and agreed that nothing contained in this Paragraph 5 shall be deemed or construed to extend the release set forth herein to any manufacturer, supplier or other "Upstream Party" of Covered Products distributed or sold by WASSCO.

6. 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 direct purchaser of the Covered Products from WASSCO (collectively, "Downstream Parties") related to the Downstream Parties' alleged failure to warn about exposures on or before the Effective Date to certain Listed Chemicals contained in, or which may be produced in fumes or gases resulting from the use or application of Covered Products. It is specifically understood and agreed that nothing contained in this Paragraph 6 shall be deemed or construed to extend the release set forth herein to any manufacturer, supplier or other "Upstream Party" of Covered Products distributed or sold by WASSCO.

7. WASSCO Release.

WASSCO, by this Agreement, 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 California Business & Professions Code § 17200 et seq. against WASSCO.

8. Cooperative Discovery Agreement.

To minimize the burden and expense that would otherwise fall upon both parties, and to avoid needless litigation, DiPirro and WASSCO agree to work in good faith to informally address any request by DiPirro for information that DiPirro needs for the prosecution of a Proposition 65 action against a WASSCO supplier of Covered Products that would otherwise be discoverable, provided the request is reasonable and pertains to the Covered Products. The parties agree that WASSCO shall have thirty (30) days from receipt to respond to any written request from DiPirro

for information. If WASSCO has made a good faith effort to collect the requested information and needs additional time, the parties agree that WASSCO shall have an additional thirty (30) days to respond. The parties further agree to work in good faith to informally resolve any discovery disputes that may arise between them. Additionally, if WASSCO believes that any requested information is confidential, competitively sensitive, trade secret or proprietary information, WASSCO may produce such information under the terms of an appropriate confidentiality stipulation and protective order to be negotiated in good faith between the parties. In the event the parties cannot informally resolve any discovery dispute that may arise, the parties agree to have the matter decided by a mutually agreeable discovery referee based in the County of San Diego, California, pursuant to California law. The Discovery Referee shall have complete discretion whether or not either party shall recover any attorneys' fees or costs incurred as a result of such a dispute.

9. Stipulated Judgment and Order.

The parties shall file a Stipulated Judgment, a copy of which is attached hereto as "Exhibit A," in the CIVIL ACTION to be approved pursuant to California Code of Civil Procedure § 664.6 by the Court in accordance with the terms of this Agreement. It is specifically understood and agreed by the parties hereto that the rights and obligations contained in this Agreement 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 ninety (90) days of the Effective Date, this Agreement shall be deemed null and void as the ninety-first (91st) day after the Effective Date.

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 remaining shall not be adversely affected thereby.

11. Attorneys' 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 reasonable 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 and notices required to be provided pursuant to this Agreement shall be in writing and shall be personally delivered or sent by first-class, registered mail or via overnight courier, addressed as follows:

If to DiPirro: Chanler Law Group
Magnolia Lane (off
Huckleberry Hill)
New Canaan, CT 06840-3801

If to WASSCO: Mr. Edward Durfey
President
WASSCO, INC.
12778 Brook Printer Place
Poway, CA 92064

with a copy to: M. Cory Brown, Esq.
Higgs, Fletcher & Mack LLP
401 West "A" St., Suite 2600
San Diego, CA 92101

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

14. No Admissions.

Nothing in this Agreement shall constitute or be construed as an admission by WASSCO of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by WASSCO of any fact, finding, conclusion, issue of law, or violation of law. WASSCO reserves all of its rights and defenses with regard to any claim by any party under Proposition 65 or otherwise. However, this section shall not diminish or otherwise affect the obligation, responsibilities, and duties of WASSCO under this Agreement.

15. Entire Agreement Modification of Agreement.

This Agreement 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 Agreement may be modified with the written agreement of the parties. To the extent any such modification is made to this Agreement that also requires modification of the Stipulated Judgment provided for

herein, the parties shall cooperate in modifying the Stipulated Judgment submitted to the Court.

16. 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.

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: 6/22/99

DATE: _____

MICHAEL DAPIRRO

WASSCO, INC.


Michael DiPirro

By: _____

Edward Durfey
President

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AGREED TO:

AGREED TO:

DATE: _____

DATE: 6/30/99

MICHAEL DIPIRRO

WASSCO, INC.

Michael DiPirro

By: 

Edward Turfey
President