

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: DOMESTIC DRYWALL  
ANTITRUST LITIGATION**

**MDL No. 2437  
13-MD-2437**

**THIS DOCUMENT RELATES TO:  
  
ALL INDIRECT PURCHASER ACTIONS**

**FINAL JUDGMENT ORDER**

Indirect Purchaser Plaintiffs (“Plaintiffs”), individually and on behalf of a class of indirect purchasers of gypsum wallboard (the “TIN Settlement Class”)<sup>1</sup>, and TIN Inc. (“TIN”) entered into an Agreement to fully and finally resolve the TIN Settlement Class’s claims against TIN. On February 13, 2015, Plaintiffs moved the Court for an order preliminarily approving the

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<sup>1</sup> The “TIN Settlement Class” means the Nationwide Injunctive Class and the Indirect Purchaser State Damages Classes, which are respectively defined as follows:

“Nationwide Injunctive Class” means all persons or entities in the United States who purchased for end use and not for resale Wallboard manufactured and/or sold by one or more of the Defendants or their subsidiaries or affiliates at any time from January 1, 2012 through November 30, 2014. Excluded from the Class are Defendants, their officers, directors, and employees, their parent companies, subsidiaries and affiliates, the legal representative and heirs or assigns of any Defendant, any federal governmental entities and instrumentalities of the federal government, any judicial officer presiding over the Action, any member of his or her immediate family and judicial staff, and any juror assigned to the Action.

“Indirect Purchaser State Damages Classes” means all persons or entities located in or making a purchase in or from an entity located in Arizona, Arkansas, California, the District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Puerto Rico, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin who purchased for end use and not for resale Wallboard manufactured and/or sold by one or more of the Defendants or their subsidiaries or affiliates at any time from January 1, 2012 through November 30, 2014. Indirect Purchaser State Damages Classes are intended to include all purchasers who would fall within any class alleged by Plaintiffs in the Action. Excluded from the Class are Defendants, their officers, directors, and employees, their parent companies, subsidiaries and affiliates, their legal representatives and heirs or assigns of any Defendant, any federal governmental entities and instrumentalities of the federal government, any judicial officer presiding over the Action, any member of his or her immediate family and judicial staff, and any juror assigned to the Action.

TIN settlement, authorizing Plaintiffs to disseminate notice to the TIN Settlement Class members, and scheduling a hearing to determine whether the TIN settlement is fair, reasonable and adequate and should be finally approved pursuant to Fed. R. Civ. P. 23(e). By order entered March 16, 2015 (the "Preliminary Approval Order"), the Court granted preliminary approval of the proposed settlement, certified the TIN Settlement Class for purposes of providing notice to the TIN Settlement Class members, and authorized the Plaintiffs to disseminate notice of the settlement, the fairness hearing, and related matters to the TIN Settlement Class members. Notice has been provided to the TIN Settlement Class members and the appropriate governmental entities under the Class Action Fairness Act, pursuant to the Preliminary Approval Order. The Court held a hearing on the fairness of the TIN settlement on July 15, 2015.

The Court has considered the Agreement, Plaintiffs' Motion for Final Approval of the Proposed Settlement with TIN, the arguments presented at the fairness hearing, and the entire record in this matter,

**AND NOW**, this 20th day of August, 2015, it is hereby **ORDERED** that:

1. The Court has jurisdiction over the subject matter of this litigation.
2. Terms capitalized in this Final Judgment Order and not otherwise defined differently herein have the same meanings as they have in the Agreement.
3. The Preliminary Approval Order outlined the form and manner by which the Plaintiffs would provide the TIN Settlement Class members with notice of the settlement, the fairness hearing, and related matters. Notice was provided to members of the TIN Settlement Class pursuant to the Plan of Notice set forth in Exhibit A to the Agreement. Proof that notice conformed with the Preliminary Approval Order has been filed with the Court. Due and

adequate notice has been provided to the TIN Settlement Class members in compliance with Fed. R. Civ. P. 23, and the requirements of due process.

4. The settlement was entered into by Plaintiffs and TIN in good faith following an extensive investigation of the facts, and substantial discovery sufficient for experienced plaintiffs' counsel to evaluate the matter. It resulted from vigorous arm's-length negotiations, which were undertaken by counsel with significant experience litigating antitrust class actions.

5. Final approval of the settlement with TIN is hereby granted pursuant to Fed. R. Civ. P. 23(e) because it is fair, reasonable, and adequate to the TIN Settlement Class members. In reaching this conclusion, the Court considered: (1) the amount of the settlement payment; (2) the cooperation to be provided by TIN to Plaintiffs; (3) the complexity, expense, and likely duration of the litigation; and (4) the TIN Settlement Class members' reaction to the settlement.

6. The TIN Settlement Class provisionally certified by the Court in its Preliminary Approval Order is certified as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure for purposes of the settlement with TIN, and is comprised of all persons and entities that purchased wallboard in the United States indirectly from any of the Defendants or their subsidiaries from January 1, 2012 through November 30, 2014. Excluded from the Nationwide Injunctive Class are Defendants, their parent companies, subsidiaries and affiliates, the officers, directors and employees of and Defendant, any federal governmental entities and instrumentalities of the federal government, any judicial officer presiding over the Action, any member of his or her immediate family and judicial staff, and any juror assigned to the Action. Excluded from the Indirect Purchaser State Damages Class are Defendants, their officers, directors, and employees, their parent companies, subsidiaries and affiliates, their legal representatives and heirs or assigns of any Defendant, any federal governmental entities and

instrumentalities of the federal government, any judicial officer presiding over the Action, any member of his or her immediate family and judicial staff, and any juror assigned to the Action. In finally certifying the TIN Settlement Class the Court adopts and incorporates herein all findings made under Rule 23 in its Preliminary Approval Order.

7. The Court's certification of the TIN Settlement Class is without prejudice to, or waiver of, the rights of the Defendants to contest certification of any other class proposed in MDL No. 2437. The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any other class in MDL No. 2437 and no party may cite or refer to the Court's approval of the TIN Settlement Class as compelling the same result with respect to any motion to certify any other class in MDL No. 2437.

8. The persons and entities identified on the attached Exhibit 1 submitted herewith have timely and validly requested exclusion from the TIN Settlement Class. Those persons and entities are not included in or bound by this Final Judgment Order or the final judgment regarding TIN.

9. All claims of Plaintiffs which were asserted against TIN in the Indirect Purchasers' First Amended Consolidated Class Action Complaint are dismissed with prejudice and without costs (except as provided for in the Agreement ).

10. Plaintiffs and all members of the TIN Settlement Class who have not timely excluded themselves (including all of their past and present, direct and indirect parents, subsidiaries and affiliates, and their past and present directors, officers, employees, stockholders, attorneys, representatives, parents, subsidiaries, affiliates, partners, and assignees of any claim that is subject to the Release) (collectively, "Releasors") are permanently barred and enjoined from prosecuting against TIN (and all of its respective past and present, direct and indirect,



parents, subsidiaries, and affiliates; the predecessors, successors, and assigns of any of the above; and each and all of the past and present principals, officers, directors, employees, agents, representatives, attorneys, heirs, executors and administrators and assigns of each of the forgoing) (collectively, "Releasees") any and all claims, demands, actions, suits, injuries, and causes of action, damages, and liabilities of any nature, whenever or however incurred (whether actual, punitive, treble, compensatory, or otherwise) including, without limitation, costs, fees, expenses, penalties, and attorneys' fees, whether class, individual, or otherwise in nature, that Releasers, or any of them, ever had, now has, or hereafter can, shall, or may have, directly, representatively, derivatively or in any other capacity against the Releasees or any of them, whether known or unknown, suspected or unsuspected, foreseen and unforeseen, actual or contingent, liquidated or unliquidated, asserted or unasserted, whether in law or equity or otherwise based in whole or in part or arising out of or relating in any way to any conduct, act or omission of the Releasees (or any of them) prior to and including the date of preliminary approval of the settlement with TIN, concerning any of the facts, occurrences, transactions, agreements, conspiracies, communications, announcements, notices, or other matters alleged in the Action against TIN that arise under any federal or state law, including, without limitation, the Sherman Act, 15 U.S.C. § 1 *et seq.* and any federal or state antitrust, unfair competition, unfair practices, price discrimination, unjust enrichment, unitary pricing or trade practice law, including but not limited to any causes of action asserted or that could have been or could still be alleged or asserted, in any class action complaints filed in this Action or related actions, which collectively includes, without limitation, any action transferred to this multidistrict litigation proceeding (the "Released Claims"). Provided, however, that nothing herein shall release: (a) any claims based upon direct purchases of Wallboard; or (b) claims for any product defect, non-

performance of contract, or other contract, product performance or warranty claims relating to Wallboard.

11. Releasors have expressly waived and released any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which states:

CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE.  
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 IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject of the provisions of Paragraph 10 of this Order, but each Releasor has expressly waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of Paragraph 10 of this Order, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

12. The Escrow Account into which TIN will deposit \$1,550,000, plus accrued interest thereon, is approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.


13. Neither the Agreement, nor any act performed or document executed pursuant to the Agreement, constitutes an admission of wrongdoing by any party in any civil, criminal, administrative, or other proceeding in any jurisdiction.

14. This Final Judgment Order does not settle or compromise any claims by the Plaintiffs against the other Defendants or any other person or entity other than TIN and the other Releasees, and all rights against any of the other Defendants or other person or entity have been specifically reserved by the Plaintiffs.

15. Without affecting the finality of this Final Judgment Order, the Court retains exclusive jurisdiction over: (a) the Final Judgment Order; (b) the Agreement; (c) any application for disbursement of the TIN Settlement Fund made by Co-Lead Counsel; and (d) Plaintiffs' Counsel's Fee and Expense Account.

16. Pursuant to Fed. R. Civ. P. 54(b), the Court finds that there is no just reason for delay and directs the entry of final judgment as to TIN.

**BY THE COURT:**



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MICHAEL M. BAYLSON, U.S.D.J.

**EXHIBIT 1 – OPT-OUT REQUESTS**

1. **D.R. Horton, Inc. 301 Commerce Street, Suite 500, Fort Worth, TX 76102**, and the following related entities:
  - a. D.R. Horton Los Angeles Holding Company, Inc.
  - b. D.R. Horton, Inc. - Torrey
  - c. CHI Construction Company
  - d. Continental Homes of Texas, L.P.
  - e. DRH Cambridge Homes, Inc.
  - f. D.R. Horton, Inc. - New Jersey
  - g. D.R. Horton, Inc. - Jacksonville
  - h. D.R. Horton, Inc. - Minnesota
  - i. D.R. Horton - Texas, Ltd.
  - j. D.R. Horton, Inc. - Birmingham
  - k. Western Pacific Housing, Inc.
  - l. D.R. Horton, Inc. - Dietz-Crane
  - m. D.R. Horton BAY, Inc.
  - n. D.R. Horton, Inc. - Sacramento
  - o. D.R. Horton, Inc. - Gulf Coast
  - p. D.R. Horton, Inc. - Greensboro
  - q. D.R. Horton VEN, Inc.
  - r. D.R. Horton- Emerald, Ltd.
  - s. DRH Southwest Construction, Inc.
  - t. Melody Homes, Inc.
  - u. Surprise Village North, LLC
  - v. D.R. Horton, Inc. - Huntsville
  - w. D.R. Horton - Schuler Homes, LLC
  - x. KDB Homes, Inc,
  - y. D.R. Horton, Inc. - Portland
  - z. Continental Residential, Inc.
  - aa. D.R. Horton - Crown, LLC
  - bb. D.R. Horton-Regent, LLC
  - cc. SSHILLC
  
2. **Beazer Homes USA, Inc. 1000 Abernathy Road, Suite 260, Atlanta, GA 30328**, and the following related entities:
  - a. Beazer Homes Holding Corp.
  - b. Beazer Homes Corp.
  - c. Beazer Homes Texas, L.P.
  - d. Beazer Homes Indiana LLP
  
3. **Hovnanian Enterprises, Inc., 110 West Front Street, Red Bank, NJ 07701**,



4. **Ashton Woods USA L.L.C.**, 1405 Old Alabama Road, Suite 200, Roswell, GA 30076, and the following related entities:
  - a. Ashton Woods Holding L.L.C.
  - b. Ashton Atlanta Residential, L.L.C.
  - c. Ashton Dallas Residential L.L.C.
  - d. Ashton Houston Residential L.L.C.
  - e. Ashton Orlando Residential L.L.C.
  - f. Ashton Tampa Residential, LLC
  - g. Ashton Charleston Residential L.L.C.
  - h. Ashton Raleigh Residential L.L.C.
  - i. Ashton Austin Residential L.L.C.
  - j. Ashton San Antonio Residential L.L.C.
  - k. Ashton Woods Construction, L.L.C.
  
5. **Toll Brothers, Inc., 250 Gibraltar Road, Horsham, PA 19044**, and each of its subsidiaries and affiliates, including:
  - a. Jupiter CC L.L.C.,
  - b. Provost Square I L.L.C.
  - c. TMF Kent Partners L.L.C.
  
6. **TRI Pointe Homes, Inc., 19540 Jamboree Road, Suite 300, Irvine, CA 92612**, and the following affiliated entities:
  - a. Tri Pointe Contractors, L.P.
  - b. The Quadrant Corporation
  - c. Winchester Homes, Inc.
  - d. Maracay Homes, L.L.C.
  - e. Trendmaker Homes, Inc.
  - f. Pardee Homes
  - g. Pardee Homes of Nevada
  
7. **Pulte Home Corporation, 3350 Peachtree Road NE, Atlanta, GA 30326.**
  
8. **KB Home, 10990 Wilshire Boulevard, Los Angeles, CA 90024.**
  
9. **Meritage Homes Corporation, 8800 East Raintree Drive, Suite 300, Scottsdale, AZ 85260.**
  
10. **M/I Homes, Inc., Three Easton Oval, Suite 500, Columbus, OH 43219**, and the following affiliated entities:
  - a. M/I Homes Service, LLC
  - b. M/I Homes of Indiana, L.P.
  - c. M/I Homes of Tampa, LLC

- d. M/I Homes of Orlando, LLC
- e. M/I Homes of Central Ohio, LLC
- f. M/I Homes of Cincinnati, LLC
- g. M/I Homes of Raleigh, LLC
- h. M/I Homes of Charlotte, LLC
- i. M/I Homes of DC, LLC
- j. M/I Homes of Chicago, LLC
- k. M/I Homes of Houston, LLC
- l. M/I Homes of San Antonio, LLC
- m. M/I Homes of Austin, LLC
- n. M/I Homes of DFW, LLC

**11. The Drees Company, 211 Grandview Drive, Fort Mitchell, KY 41017.**

- a. Drees Custom Homes L.P.
- b. Drees Premier Homes, Inc.
- c. Drees Homes of Florida, Inc.
- d. Saber Ridge, L.L.C.
- e. Ausherman Homes, Inc.

**12. The Ryland Group, 3011 Townsgate Road, Suite 200, Westlake Village, CA 91361.**