

OFFICIAL COURT NOTICE OF LITIGATION AND OF PARTIAL CLASS ACTION SETTLEMENTS

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

IN RE: METAL BUILDING INSULATION
ANTITRUST LITIGATION

CIVIL ACTION NO.
H-96-3490

TO: ALL PURCHASERS OF METAL BUILDING INSULATION PRODUCTS FROM HIPLAX INTERNATIONAL CORPORATION, D/B/A BRITE INSULATION CORPORATION, MIZELL BROTHERS COMPANY, BAY INDUSTRIES, INC., THERM-ALL, INC., CGI SILVERCOTE, INC., PBI SUPPLY, INC., AND SUPREME INSULATION, INC. DURING THE TIME PERIOD FROM JANUARY 1, 1994 THROUGH DECEMBER 31, 1995.

THIS NOTICE EXPLAINS PROPOSED PARTIAL CLASS ACTION SETTLEMENTS OF THIS LITIGATION.

PLEASE READ THIS NOTICE CAREFULLY.

THIS NOTICE ANSWERS THESE IMPORTANT QUESTIONS:

- 1. Why should I read this notice?**
- 2. What is the case about?**
- 3. Who is in the settlement class?**
- 4. What are the terms of the proposed PBI Settlement and the proposed Therm-All Settlement?**
- 5. What will I receive in the proposed PBI and Therm-All Settlements?**
- 6. What must I do to claim my portion of the PBI and Therm-All Settlements?**
- 7. What are my rights in the Court process for reviewing the proposed PBI and Therm-All Settlements?**
- 8. How do I exclude myself from the PBI and Therm-All Settlements and the PBI and Therm-All Settlement Classes?**
- 9. Whom do I contact if I have questions about the PBI or Therm-All Settlements or the Proof of Claim form?**
- 10. What are the important dates and deadlines for the PBI and Therm-All Settlements?**

1. Why should I read this notice?

If you purchased metal building insulation during the period from January 1, 1994 through December 31, 1995, (see Question 3, "Who is in the settlement class?" below) your rights may be affected by partial class action settlements reached in litigation called *In re: Metal Building Insulation Antitrust Litigation*, C.A. No. H-96-3490, pending in the United States District Court for the Southern District of Texas, Houston Division.

The purpose of this notice is to inform you of (1) partial settlements and the proceedings related to them, and (2) your right to be excluded from the settlement class. This notice provides essential information concerning the PBI and Therm-All Settlements and potential rights regarding them.

2. What is the case about?

This lawsuit, which was commenced October 16, 1996, charges certain suppliers of metal building insulation with violating federal antitrust laws by conspiring unlawfully to fix, raise, maintain and stabilize the prices at which metal building insulation products were sold to customers in the United States during the period from January 1, 1994 to December 31, 1995. The plaintiffs are Caddell Construction Co., Inc. and Toron, Inc., d/b/a Anthony Rentals & Sales ("Plaintiffs").

The defendants are Hiplax International Corporation, d/b/a Brite Insulation Corporation, its Vice-President of Sales, Jerrold Warren Killingsworth, and its Executive Vice-President Yun Lung Yueh a/k/a Peter Yueh; Mizell Brothers

Company and Wally Huber Rhodes, Jr., its former National Sales Manager and Vice-President of Sales; Bay Industries, Inc.; Therm-All, Inc.; CGI Silvercote, Inc.; PBI Supply, Inc.; and Supreme Insulation, Inc.

The United States Department of Justice, Antitrust Division, has charged the following corporate and individual defendants with criminal antitrust violations, as well: Hiplax, Mr. Killingsworth, Mr. Yueh, Mizell Brothers Company, Mr. Rhodes, Bay Industries, Mark Albert Maloof, the Regional Sales Manager for Bay Industries, Therm-All, Inc. and Supreme Insulation, Inc. Defendants Hiplax, Killingsworth, Yueh, and Rhodes have pled guilty to these criminal charges, and Mr. Maloof was convicted of them. Mizell Brothers also entered a plea to the criminal charges. Therm-All and Supreme were also convicted.

In 2000, Plaintiffs reached separate settlements with Mizell Brothers and Rhodes (the "Mizell Defendants"), and Bay Industries, Inc. ("Bay Industries") (the "Mizell/Bay Settlement"). Notice in connection with the Mizell/Bay Settlement was sent out on September 22, 2000. In addition, Plaintiffs have recently reached settlement agreements with defendants PBI Supply, Inc. and Therm-All, Inc. These proposed settlements, referred to hereafter together as the "Settlements," have been preliminarily approved by the Court. This Notice explains how the proposed PBI and Therm-All Settlements may affect you and informs you of the decisions you need to consider at this time in connection with the Settlements.

All defendants, including PBI and Therm-All, deny all of the material allegations of Plaintiffs' Complaint. The Settlement Class requested in connection with the Settlements is identical to the Settlement Class finally certified by the Court in connection with the Mizell/Bay Settlement and the Court has also conditionally allowed the case to proceed as a class action with regard to the Settlements. However, the Court has not taken any position on the merits of the lawsuit, and the Court's decision to certify a class for purposes of the Settlements should not be interpreted as any indication of whether Plaintiffs will prevail in a trial of this lawsuit.

3. Who is in the settlement class?

The Court has defined the settlement class ("Settlement Class") as follows:

All purchasers (excluding governmental entities, defendants, subsidiaries and affiliates of the defendants, and other producers of metal building insulation and their subsidiaries and affiliates) in the United States of metal building insulation directly from any of the defendants herein or any co-conspirator or any subsidiary or affiliate thereof, at any time during the period from January 1, 1994 through December 31, 1995.

If you meet this definition you are a member of the Settlement Class unless you elect to exclude yourself. See Question 8, "How do I exclude myself from the Settlements and the Settlement Class?" below.

4. What are the terms of the proposed PBI and Therm-All Settlements?

The PBI Settlement pertains only to the claims made by Plaintiffs against PBI. **The PBI Settlement will not take effect unless it is approved by the Court.** PBI has agreed to pay \$100,750 to settle the claims in this lawsuit.

The Therm-All Settlement pertains only to the claims made by Plaintiffs against Therm-All. **The Therm-All Settlement will not take effect unless it is approved by the Court.** Therm-All has agreed to pay \$125,000 to settle the claims in this lawsuit.

If approved, the PBI and Therm-All Settlements together with the Mizell/Bay Settlement will provide a settlement fund in the principal amount (excluding interest) of \$1,516,500.

5. What will I receive in the proposed PBI and Therm-All Settlements?

If you are a member of the Settlement Class, you are entitled to receive a *pro rata* share of the settlement fund after the payment of attorneys' fees and costs. The amount of attorneys' fees and costs are subject to approval by the Court, and Class Counsel will not seek an award in excess of one-third of the settlement fund. Your *pro rata* share will be calculated based upon your purchases of metal building insulation products during the class period as described in paragraph 6 below. You must submit this information in a valid Proof of Claim form.

6. What must I do to claim my portion of the Settlements?

In order to receive the benefits of the PBI and Therm-All Settlements, you must complete, sign, and submit a Proof of Claim form, **unless you have already submitted a duly executed Proof of Claim pursuant to notice of the Mizell/Bay Settlement.** A copy of the form can be obtained by sending a written request to: Claims Administrator, In re Metal Building Insulation Settlement, c/o Heffler, Radetich & Saitta L.L.P., P.O. Box 10, Philadelphia, PA 19105-0010. **The completed Proof of Claim form must be postmarked or received no later than August 4, 2003.** The address to which it must be mailed is shown on the form. If you have not previously submitted a duly executed Proof of Claim form pursuant to notice of the Mizell/Bay Settlement but submit a timely executed Proof of Claim form pursuant to

the PBI and Therm-All Settlements, you will only be entitled to receive benefits of the PBI and Therm-All Settlements because the deadline for Proof of Claim forms for the Mizell/Bay Settlement has expired.

If you have previously filed a Request to be Excluded pursuant to the notice of the Mizell/Bay Settlement but wish to receive the benefits of the PBI and Therm-All Settlements, you must submit a duly executed Proof of Claim form in accordance with the preceding paragraph. However, because you excluded yourself from the Mizell/Bay Settlement, you will only be entitled to receive benefits of the PBI and Therm-All Settlements.

If the Settlements are approved by the Court, they release PBI and Therm-All from all claims alleged by Plaintiffs on behalf of the Class including all claims arising out of or resulting from conduct concerning the pricing, selling, discounting, marketing, or distributing of metal building insulation and which arise under any federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, or trade practice law.

7. What are my rights in the Court process for reviewing the Settlements?

The Settlements will only take effect if the Court, after reviewing the settlement agreements and the court papers in support of and any in opposition to the Settlements, determines that they are fair and reasonable to you and the other members of the Settlement Class. You may review these documents, which are on file in the Office of the Clerk of the Court, and you may receive more detailed information regarding the Settlements by contacting Plaintiffs' counsel during normal business hours at the address and telephone number provided below.

The Court will hold a hearing to determine whether the PBI and Therm-All Settlements are fair and reasonable (the "Settlement Hearing"). The Settlement Hearing will be held in the courtroom of the Honorable Nancy F. Atlas at 12:30 p.m. on August 28, 2003 in Courtroom 9F of the United States Courthouse, 515 Rusk Street, Houston, Texas. You may appear at this hearing (either personally or through an attorney you retain) and be heard in support of, or in opposition to, the fairness, reasonableness, or adequacy of the proposed PBI and Therm-All Settlements.

You (or your attorney) will not be heard at the Settlement Hearing, and no paper, brief, or evidence will be received or considered by the Court in opposition to the PBI and Therm-All Settlements, unless you file papers with the Court not later than August 4, 2003. Those papers must include a written notice of your intention to oppose, together with a statement of the position you intend to assert and reasons for your position, as well as any other papers, briefs, and evidence you wish the Court to consider in connection with its review and possible approval of the PBI and Therm-All Settlements.

In addition to filing such papers with the Court, you must serve copies on the following counsel for Plaintiffs, PBI and Therm-All :

Michael A. Caddell, Esq.
CADDELL & CHAPMAN
The Park in Houston Center
1331 Lamar
Suite 1070
Houston, TX 77010
(713) 751-0400

Counsel for Plaintiffs

Gregory S.C. Huffman, Esq.
THOMPSON & KNIGHT, LLP
1700 Pacific Avenue
Suite 3300
Dallas, TX 75201
(214) 969-1700

Counsel for PBI

Karl R. Wetzal, Esq.
**WEGMAN, HESSLER
& VANDERBURG, PA**
Suite 200
6055 Rockside Woods Boulevard
Cleveland, OH 44131-2303
(216) 642-3342

Counsel for Therm-All

If you do not oppose the Settlements, you do not need to appear at the Settlement Hearing or take any other action to indicate your position on them. You should, however, submit the Proof of Claim form, if you have not already done so, to participate in the benefits of the PBI and Therm-All Settlements if they are approved by the Court.

8. How do I exclude myself from the Settlements and the Settlement Class?

If you wish to be excluded from the Settlement Class and from participating in the PBI or Therm-All Settlements, you must submit a Request to be Excluded postmarked or received no later than August 4, 2003. If you exclude yourself from the Settlement Class, you will not be entitled to participate in the settlement proceeds, and you will not be bound by any judgments rendered for or against the Class and will remain free to file your own lawsuit, at your own expense, against PBI or Therm-All. If you previously elected to be excluded in a timely manner pursuant to the notice of the Mizell/Bay Settlement and you also wish to be excluded from the Settlements, then you must submit a Request to be Excluded postmarked or received no later than the above date.

If you do not request exclusion, your interests will be represented by Counsel for the Settlement Class. These are Caddell & Chapman of Houston, Texas, and Barrack Rodos & Bacine LLP, Kohn, Swift & Graf, P.C., and Weinstein Kitchenoff Scarlato, Karon & Goldman Ltd., all of Philadelphia, Pennsylvania. In that event, you will not be individually responsible for the payment of any attorneys' fees or litigation costs or expenses. However, if you so desire, you may enter an appearance through counsel of your own choice at your own expense. If you do not request exclusion, you will be bound by any judgment rendered in the case.

Claims Administrator
In re Metal Building Insulation Settlement
c/o Heffler, Radetich & Saitta L.L.P.
P.O. Box 10
Philadelphia, PA 19105-0010

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PLEASE FORWARD—IMPORTANT LEGAL NOTICE

9. Whom do I contact if I have questions about the Settlements or Proof of Claim form?

If you have questions concerning the proposed Settlements or the Proof of Claim form, you may direct them either to your own attorney or advisor or to Plaintiffs' Counsel at the address or telephone number listed in Question 7 above. **Please do not contact the Court or the Clerk.**

10. What are the important dates and deadlines for the Settlements?

The following are pertinent deadlines and other dates to keep in mind for the Settlements:

Requests to be excluded from the PBI Settlement or the Therm-All Settlement postmarked or received	August 4, 2003
Papers supporting the Settlements to be filed and served	August 18, 2003
Any objections to the Settlements to be filed and served	August 4, 2003
Hearing on Final Approval of the Settlements	August 28, 2003
Proof of Claim form to be postmarked or received (if you have not already submitted one)	August 4, 2003

The foregoing is only a summary of the matters described. For more detailed information you may during normal business hours either contact Plaintiffs' Counsel or inspect papers on file in the office of the Clerk of the Court.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK
REGARDING THIS NOTICE.**

Dated: June 9, 2003

Clerk of the United States District Court for
the Southern District of Texas, Houston Division