

SETTLEMENT AGREEMENT BETWEEN CONSUMER ADVOCACY GROUP, INC.
AND CREW, INC.

Consumer Advocacy Group, Inc., on behalf of itself and suing in the public interest pursuant to Health and Safety Code section 25249.7, subdivision (d) ("CAG"), and Crew, Inc. ("Crew"), (CAG and Crew, collectively, "Parties") enter into this agreement ("Settlement Agreement") to settle the case entitled *Consumer Advocacy Group, Inc. v. International Pavement Solutions, Inc., et al.*, and pending in the Superior Court of California for the County of Alameda, Case No. RG07363352 ("Lawsuit"), as follows:

1.0 Introduction

1.1 CAG is an entity based in Los Angeles, California that 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. Crew disputes this.

1.2 CAG alleges that Crew is a company that employs ten or more persons and acts primarily as a paving contractor. Crew disputes this.

1.3 CAG alleges that Crew uses paving materials, some of which contain asphalt or coal tar, the use of which is alleged to expose persons to acetaldehyde; arsenic (inorganic arsenic compounds); benz[a]anthracene; benzene; benzo[a]pyrene; benzo[b]fluoranthene; benzo[k]fluoranthene; beryllium and beryllium compounds; 1,3-butadiene; cadmium and cadmium compounds; carbazole; chromium (hexavalent compounds); chrysene; dibenz[a,j]acridine; dibenz[a,h]anthracene; dibenzo[a,e]pyrene; dibenzo[a,h]pyrene; dibenzo[a,i]pyrene; dibenzo[a,l]pyrene; dichloromethane (methylene chloride); formaldehyde (gas); indeno[1,2,3-cd]-pyrene; lead and lead compounds; 5-methylchrysene; nickel and nickel compounds; silica, crystalline; tetrachloroethylene (perchloroethylene); toluene diisocyanate; trichloroethylene; carbon disulfide; mercury and mercury compounds; and toluene (collectively, "Covered Chemicals"). Crew disputes this.

1.4 The Covered Chemicals are substances listed in the regulations promulgated under the California Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, §§ 25249.5, et seq.) ("Proposition 65") as chemicals known to the State of California to cause cancer or reproductive harm.

1.5 On March 9, 2006, CAG served public enforcement agencies and Crew with a document entitled "60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6" ("Notice"). The Notice alleged that Crew violated Proposition 65 by failing to warn its employees and other persons in California

that some of the paving materials used by Crew expose those persons to Covered Chemicals. Crew disputes the allegations contained in this paragraph.

1.6 On December 27, 2007, CAG filed the Lawsuit alleging Crew, among other entities, violated Proposition 65 by exposing employees and others to Covered Chemicals contained in asphalt paving products without providing “clear and reasonable” warnings. The alleged exposures constitute “consumer product,” “occupational,” and “environmental” exposures pursuant to California Code of Regulations, title 22, section 12601. Crew denies the material allegations of the Lawsuit and liability for the cause of action alleged in the complaint.

1.7 The Parties enter into this Settlement Agreement for settlement of certain disputed claims between the Parties as alleged in the CAG Complaint and Notice in order to avoid prolonged and costly litigation between the Parties.

1.8 By execution of this Settlement Agreement, the Parties admit no facts or conclusions of law, including those regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, including any admission concerning the meaning of the terms “knowingly and intentionally expose” or “clear and reasonable warning” as used in Health and Safety Code section 25249.6. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed as evidence of an admission or evidence of fault, wrongdoing, or liability by Crew, its officers, directors, employees, or parent, subsidiary or affiliated corporations, in any administrative or judicial proceeding or litigation. Except for the cause of action and allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Crew may have against one another in any other pending legal proceeding.

2.0 Release

2.1 Upon judicial approval of the settlement between the Parties and the expiration of time in which to appeal the same, CAG releases and forever discharges Crew and its affiliates, subsidiary and parent corporations, or their affiliated companies, and each of their officers, directors, agents, servants, partners, stockholders, attorneys, employees, representatives, and each of their respective successors and assigns (collectively, the “Released Parties”) from rights, claims, causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and attorney fees, costs and expenses related to or arising out of the facts and claims alleged in the Lawsuit. Without limiting the foregoing, the Parties intend the scope of this release to cover all Claims Covered (as defined in Section 3.1 below) as to the Released Parties put in controversy by the Lawsuit.

2.2 CAG is aware of the contents of Section 1542 of the Civil Code. CAG acknowledges that the claims released in this Lawsuit include known and unknown claims and hereby waives any protections provided for by Section 1542 of the Civil Code. Section 1542 of the Civil Code provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

To confer upon Crew a broad release of claims, CAG expressly waives all rights and benefits conferred upon it by Civil Code Section 1542, as well as any other similar state or federal statute or common law principle, to the fullest extent it may lawfully waive such right or benefits pertaining to the claims released above. CAG acknowledges that this waiver was separately bargained for and will be construed as broad as possible. This Release shall be given full force and effect in accordance with all of its expressed terms and provisions, relating to unknown or unsuspected claims, demands, causes of action, if any, to the same effect as those terms and provisions relating to any other claims, demands, and causes of action whichever be brought against one another, under any circumstance.

3.0 Claims Covered

3.1 This Settlement Agreement is a final and binding resolution between the CAG and the Released Parties of the following claims and causes of action: All claims, known or unknown, which were or could have been asserted in the Lawsuit arising out of allegations that the Released Parties violated Proposition 65 or any other law because of Released Parties' operations.

4.0 Defendant's Duties

4.1 Posting of Warning. Within sixty days after entering into this Settlement Agreement, Crew shall post the warning to its employees described in Exhibit A ("Warning"). Crew shall: (i) post a sign containing the Warning in a conspicuous location, such as a locker room where employees store their gear, or near a time clock where employees check in and out regularly, or where other legally required employment notices are posted, and under conditions that make it likely to be read and understood by employees prior to the alleged exposure for which the Warning is given; and (ii) distribute the Warning in writing to all employees receiving training as part of its Hazard Communication Program pursuant to Paragraph 4.2.

4.2 Hazard Communication Program. At the time Crew executes this Settlement Agreement, it shall simultaneously execute a declaration under penalty of perjury, in the form attached as Exhibit B to the Settlement Agreement,

certifying that it has a Hazard Communication Program. Crew shall then submit the signed declaration to CAG.

4.3 **Alternative Warning Requirements.** The Legislature may amend Proposition 65 or administrative agencies of the State of California, including the Attorney General or the OEHHA, may initiate or promulgate regulations under Proposition 65 or issue other interpretive guidance, including a safe-use determination, which may affect the requirement to provide warnings under Proposition 65 for the Covered Chemicals. If any action by any public entity permits any form(s) of warning other than the Warning attached hereto, or varies the form or content of the Warning, then Crew may satisfy the obligations under Paragraph 4.1 by providing warnings in a manner consistent with such subsequently promulgated law, regulation or interpretive guidance. Nothing in this Settlement Agreement, however, shall relieve Crew from the obligation to comply with any new requirement imposed by the State of California after the Parties execute this Settlement Agreement. If other statutes require warnings, Crew shall provide those warnings as required by those laws. If any law, rule, regulation, or final decision of any legislative, judicial or executive body renders invalid or unenforceable the warning requirements of Paragraph 4.1, Crew has no further obligations under Paragraph 4.1. Should CAG disagree it may petition the Court for enforcement of the Settlement Agreement. Notwithstanding any other provision of this Settlement, should Crew cease to implement or modify the warning required here due to the occurrence of the events described in this Paragraph, it shall provide written notice to CAG of its intent to do so no less than 30 days in advance. CAG shall notify Crew in writing of any objection within 30 days of its receipt of such notice.

4.4 **No Other Warnings Required.** In the interests of a full and final resolution of this matter, the Parties agree that the Warning is sufficient. Crew maintains that law requires no warning. CAG maintains that law requires additional warnings beyond those provided here. Specifically, CAG maintains that environmental warnings are required for exposure to the Covered Chemicals in addition to the occupational warnings provided for here. Nonetheless, in recognition of and in consideration for the measures below that Crew will adopt and the effect those measures will have, CAG releases Crew from any obligation to warn for exposure to the Covered Chemicals other than as provided here. CAG reserves the right to allege that persons, other than Crew, are obligated to provide warnings for exposure to the Covered Chemicals.

4.5 **New Scientific Data.** Any warning obligation under Section 4 for any Covered Chemical may be eliminated if new scientific data causes: (a) the deletion of that Covered Chemical from the list published by the State pursuant to Health and Safety Code section 25249.8 or any successor legislation, or (b) that Covered Chemical to qualify for an exemption pursuant to Health and Safety Code section 25249.10 or any successor legislation. Crew may modify or remove

the Warning to reflect that deletion or exemption, unless Crew exposes or causes to be exposed any individual to any other Covered Chemical requiring a Warning pursuant to this Settlement Agreement. Should CAG not agree with the modification or removal of a Warning pursuant to this paragraph, CAG may petition the Court.

4.6 Safe Use Determination. Notwithstanding any other provision of this Settlement Agreement, at any time after Crew executes this Settlement Agreement, Crew may seek a Safe Use Determination (“SUD”) for one or more of the Covered Chemicals from the OEHHA (or its successor) pursuant to Section 12204 of Title 22 of the California Code of Regulations (or any successor legislation or regulation). In such event, the terms of this Settlement Agreement shall not operate with any prejudice to the SUD. Provided Crew furnishes notice to CAG at least 30 days before filing the SUD application with the OEHHA, which shall include a copy of the application, so as to provide CAG a meaningful opportunity to comment to OEHHA on the matter, then, should OEHHA issue a SUD that there is no obligation to provide warnings under Proposition 65 with respect to the Covered Chemical(s) identified in the application, Crew shall have no obligation pursuant to Paragraph 4.1 as to the Covered Chemical(s) identified in the SUD.

4.7 Exposure Reduction Measures. Crew shall institute certain measures related to the use of the asphalt products in order to reduce or mitigate occupational or environmental exposure to one or more of the Covered Chemicals. Because of the benefits of these measures, CAG will not insist upon warnings for “environmental” exposures. To reduce potential exposure to the Covered Chemicals and reduce pollution in California, Crew shall limit the representative temperature of asphalt products in its control to either (a) no greater than 375°F, or (b) 25°F below the product’s “flash point” (as determined by the AASHTO test method T48 or ASTM test method D92). Crew may choose between measures (a) and (b) at its discretion. No party shall deem either measure to be more effective than the other. The actions taken by Crew pursuant to this Paragraph are solely for purposes of compliance with this Settlement Agreement and are not meant to, and do not, change any manufacturer’s or other project specifications. As with every other provision in this Settlement Agreement, only the Parties may enforce compliance with this Paragraph. Notwithstanding the foregoing, the terms of this paragraph only apply when Crew engages in the practice of applying asphalt.

4.8 Enforcement of Exposure Reduction Measures. CAG intends to monitor compliance with Paragraph 4.7 through whatever measures it deems appropriate, so long as such measures do not violate any law. Should CAG believe that Crew is not complying with its obligations under Paragraph 4.7, CAG will provide Crew a 30 day written notice to comply before seeking enforcement of this Settlement Agreement.

5.0 Payments

5.1 Defendants' Payment in Lieu of Civil Penalties. Within 15 days following court approval of the Settlement Agreement, Crew shall pay CAG, a corporation commenced for the purpose of furthering environmental causes, \$500.00. Payment shall be to "Consumer Advocacy Group, Inc." CAG will use the payment for such projects and purposes related to environmental protection, worker health and safety, or reduction of human exposure to hazardous substances (including administrative and litigation costs arising from such projects), as CAG may choose. CAG will provide its address and federal tax identification number to Crew.

5.2 Payment to Yeroushalmi & Associates. Within 15 days following court approval of the Settlement Agreement, Crew shall pay \$15,500.00 to CAG for attorney fees and costs. Payment shall be to "Yeroushalmi & Associates." CAG represents and warrants that CAG has authorized the payment of attorney fees and costs, and that the payment and any application or distribution of such payment will not violate any agreement between CAG and its attorneys with any other person or entity. Crew does not object to this allocation. Yeroushalmi & Associates will provide its address and federal tax identification number to Crew.

6.0 Authority to Enter Into Settlement Agreement

6.1 CAG represents that the signatory to this Settlement Agreement has the authority to enter into this Settlement Agreement on behalf of CAG and to bind CAG legally. Crew represents that the signatories to this Settlement Agreement have the authority to enter into this Settlement Agreement on behalf of Crew and to bind Crew legally.

7.0 Attorney General Review

7.1 Consistent with section 3003(a) of Title 11 of the California Code of Regulations, CAG shall submit this Settlement Agreement to the Attorney General's Office for review within five days of the Parties' execution of this Settlement Agreement.

8.0 Execution in Counterparts and Facsimile

8.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or PDF signature shall be as valid as the original.

9.0 Approval of Settlement Agreement Required

9.1 CAG shall submit this Settlement Agreement to the Court for consideration as required by Health and Safety Code section 25249.7, subdivision (f)(4). CAG will provide the Court with the necessary information to allow the Court to make the findings required by Health and Safety Code section 25249.7, subdivision (f)(4)(A)-(C).

9.2 This Settlement Agreement shall be void should the Court not ultimately approve this settlement as required by Health and Safety Code section 25249.7, subdivision (f)(4)(A)-(C).

10.0 Entire Agreement

10.1 This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

11.0 Modification of Settlement Agreement

11.1 Any modification to this Settlement Agreement shall be in writing by the Parties.

12.0 Application of Settlement Agreement

12.1 This Settlement Agreement shall apply to, be binding upon, and inure to, the benefit of the CAG and the Released Parties identified above.

13.0 Severability

13.1 In the event that a court of competent jurisdiction finds unenforceable any provision of this Settlement, such finding shall not affect adversely the validity of the enforceable provisions.

14.0 Governing Law

14.1 The laws of the State of California shall govern the terms of this Settlement Agreement.

15.0 Attorney Fees

15.1 In the event that a dispute arises concerning any provision(s) of the Settlement Agreement, and such disputes are resolved by the Court or through

any alternative dispute resolution proceeding, the prevailing party in such action or proceeding shall be entitled to recover costs and reasonable attorney fees.

16.0 Notification Requirements

16.1 Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi
Yeroushalmi & Associates
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
Fax: 213.382.3430

For Crew:

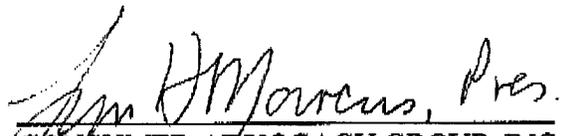
Crew, Inc.
David M. Lalonde
19618 South Susana Rd.
Rancho Dominguez, CA 90221

And a courtesy copy to:

Jack W. Fleming, Esq.
Musick, Peeler & Garrett LLP
650 Town Center Dr Ste 1200
Costa Mesa, CA 92626-7166
Fax: 714.668.2490

Any party may change its designee(s) for purposes of notification by providing notice of such change pursuant to this section.

Dated: 5/02/04

By:  J. H. Marcus, Pres.
CONSUMER ADVOCACY GROUP, INC.

Dated: _____

By: _____
CREW, INC.

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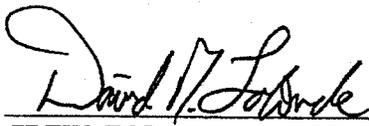
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Dated: _____

By: _____
CONSUMER ADVOCACY GROUP, INC.

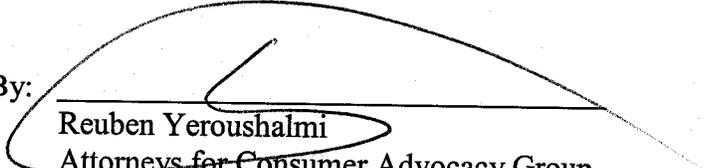
Dated: APRIL 29, 2008

By: 
CREW, INC.

As to form only:

YEROUSHALMI & ASSOCIATES

Dated: 5/2/08

By: 
Reuben Yeroushalmi
~~Attorneys for Consumer Advocacy Group,~~
Inc.

MUSICK, PEELER & GARRETT LLP

Dated: _____

By: _____
Jack W. Fleming, Esq.
Attorneys for Crew, Inc.

As to form only:

YEROUSHALMI & ASSOCIATES

Dated: _____

By: _____

Reuben Yeroushalmi
Attorneys for Consumer Advocacy Group,
Inc.

MUSICK, PEELER & GARRETT LLP

Dated: 5-2-08

By: _____

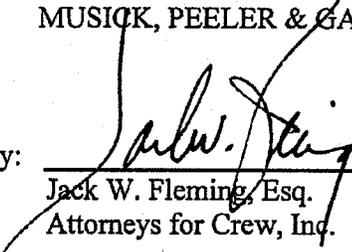

Jack W. Fleming, Esq.
Attorneys for Crew, Inc.

EXHIBIT A – OCCUPATIONAL WARNING

WARNING: CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER AND BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM ARE PRESENT IN YOUR WORK AREA. Asphalt, sand, diesel engine exhaust and other materials in your work area contain chemicals known to the State of California to cause cancer and/or reproductive harm. Exposure to some or all of these chemicals occurs during paving operations and related activities. Always familiarize yourself with the hazards of the materials and equipment you are using and follow the precautions indicated on product labels, Material Safety Data Sheets and your health and safety training program.

EXHIBIT B – DECLARATION REGARDING HCP

I, DAVID M. LABONDE, declare and state as follows:

1. I am the PRESIDENT of CREW INC. (“Defendant”).
2. I have personal knowledge of the matters stated herein and, if called upon to testify, could competently testify thereto.
3. Defendant has in effect a Hazard Communication Program, which Defendant adopted and now administers pursuant to California law and the governing regulations. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29TH of APRIL, 2008, at RANCHO DOMINGUEZ, California.

Signature David M. Labonde
Print name: DAVID M. LABONDE
For: CREW INC.
Name of Defendant