



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN RE TILE SHOP HOLDINGS, INC. ) Consol. C.A. No. 2019-0892-SG  
LITIGATION )  
)

**STIPULATION OF SETTLEMENT**

This Stipulation of Settlement dated as of August 7, 2020 (the “Stipulation”) is made and entered into in the above-captioned action by and among (i) K-Bar Holdings LLC and Wynnefield Capital, Inc. (together, the “Plaintiffs”), on behalf of themselves and each of the Settlement Class Members and derivatively on behalf of the Company; (ii) Cabell Lolmaugh, Robert A. Rucker, Peter J. Jacullo III, Peter H. Kamin, Todd Krasnow and Philip B. Livingston (collectively, the “Individual Defendants”); and (iii) Nominal Defendant Tile Shop Holdings, Inc. (“Nominal Defendant,” “Tile Shop,” or the “Company”). The Stipulation states all of the terms of the settlement of this matter and is intended by the Parties to fully, finally and forever resolve, discharge and settle the Released Claims, subject to the terms and conditions set forth below and the approval of the Court of Chancery of the State of Delaware (the “Court”).

***History of the Litigation***

A. On October 22, 2019, before the opening of the NASDAQ market, Tile Shop announced that it would voluntarily delist its common stock from the NASDAQ Stock Market and deregister it from United States Securities and Exchange Commission reporting requirements. It also announced that its Board of

Directors had decided to suspend the Company's quarterly cash dividend and cancel the Company's share repurchase program. The Company also announced that Christopher T. Cook had resigned from the Board of Directors effective October 19, 2019 and the Company's financial results for its third quarter of 2019.

B. Between October 23, 2019 and November 8, 2019, a trust for Defendant Peter Jacullo's children purchased over 2.3 million shares of Tile Shop common stock on the open market while Defendant Peter Kamin and trusts and entities associated with him bought over 4.2 million shares of Tile Shop common stock on the open market (collectively, all such shares purchased by Defendants Kamin and Jacullo or entities affiliated with them between October 23 and November 8, 2019, shall be referred to herein as the "Kamin and Jacullo Post-Announcement Shares").

C. Plaintiff K-Bar Holdings LLC ("K-Bar") commenced this class and derivative action and moved for a temporary restraining order ("TRO") and expedited proceedings on November 5, 2019, to restrain Defendants from: (i) purchasing further shares of the Company on the open market and (ii) completing the deregistration of Tile Shop's common stock.<sup>1</sup>

---

<sup>1</sup> (Trans IDs 64386615 and 64388758). On November 13, 2019, the Court consolidated the K-Bar and Wynnefield actions. (Trans ID 64407170).

D. At the conclusion of the November 8, 2019 hearing, the Court granted K-Bar's request for the TRO, expedited proceedings, and scheduled a hearing on K-Bar's application for a preliminary injunction. (Trans ID 64429321).

E. In response to this litigation, on January 10, 2020, the Individual Defendants delivered Director Standstill Commitments to the Company. Each Individual Defendant committed not to, directly or through any affiliate, purchase any shares of the Company's common stock if, as a result of such purchase, (i) the Individual Defendant would beneficially own in the aggregate more than five percent of the issued and outstanding shares of the Company's common stock, or (ii) to the knowledge of the Individual Defendant, all of the then-serving directors of the Company would together in the aggregate beneficially own in excess of 50 percent of the issued and outstanding shares of the Company's common stock. The Company's future grants of equity compensation to the Individual Defendants are not covered by these commitments as long as such grants are substantially consistent with the past practices of the Company and are made in connection with the Individual Defendant's role as a member of the board of directors of the Company. The Director Standstill Commitments are binding and irrevocable and extend until the later of (i) two years and (ii) the date upon which the Individual Defendant's service as a member of the Board ends.

F. Between November 8, 2019 and February 7, 2020, the parties conducted expedited discovery. Defendants and Plaintiffs produced over 66,000 and over 1,200 documents, respectively. The parties also served 12 third party subpoenas and reviewed over 2,000 documents produced by third parties. Plaintiffs deposed Defendants Kamin, Jacullo, Rucker, former director Christopher T. Cook and the Company's former Chief Financial Officer, Kirk Geadelmann. Defendants also deposed representatives from Plaintiffs K-Bar, Wynnefield, and third-party, Brian Kahn.

G. Plaintiffs and Defendants submitted expert reports in connection with Plaintiffs' application for preliminary injunction on February 3 and February 5, 2020, respectively.

H. On February 7, 2020, Plaintiffs filed their brief in support of their motion for preliminary injunction. On February 14, 2020, Defendants filed their brief in opposition of Plaintiffs' motion for preliminary injunction and consented to "continuing the terms of" the TRO "pending the trial of this matter." (Trans. ID 64730868 at 1).

I. Thereafter, the parties engaged in trial discovery. Defendants produced another 1,352 documents and Plaintiffs again deposed Defendants Kamin, Jacullo, and Rucker. Plaintiffs also obtained discovery from Defendant Kamin and Jacullo's brokers, Interactive Brokers and Vanguard, respectively.

J. On February 12, 2020, Defendant Rucker submitted his resignation from the Board via letter. On March 24, 2020, Defendant Krasnow submitted his resignation from the Board via letter. On April 14, 2020, Defendant Livingston notified the Board of his intention not to stand for reelection at the 2020 Annual Meeting of Stockholders.

K. On February 24, 2020, Plaintiffs filed a motion for class certification. The parties completed briefing on the motion for class certification on June 12, 2020.

L. On March 24, 2020, the Court accepted the parties' request for a mediation to be conducted by Vice Chancellor Kathaleen St. Jude McCormick ("Vice Chancellor McCormick"). The parties and Vice Chancellor McCormick scheduled a full day mediation for June 17, 2020.

M. Plaintiffs and Defendants submitted additional expert reports on April 3 and April 30, 2020, respectively.

N. On May 11, 2020, Defendants filed a motion to amend their answer to the complaint. Plaintiffs' filed a brief in opposition to the motion to amend on June 11, 2020, and the Court granted the motion to amend on June 11, 2020.

O. On July 15, 2020, the Court scheduled the trial in this action for August 11-14, 2020.

P. Between March 24, 2020 and June 17, 2020, the parties engaged in numerous telephone conversations with each other and with Vice Chancellor McCormick concerning settlement negotiations.

Q. On June 17, 2020, the parties participated in a full day mediation conducted by Vice Chancellor McCormick.

R. Between June 17, 2020, and June 30, 2020, the parties continued settlement negotiations overseen by Vice Chancellor McCormick.

S. On June 30, 2020, the Parties participated in another half-day mediation conducted by Vice Chancellor McCormick, during which the Parties and Defendants' insurers reached agreement on the principal terms of the Settlement.

T. Thereafter, the Parties negotiated the remaining terms of this Stipulation.

U. In settlement negotiations in the matter, Plaintiffs sought the appointment of new independent directors of Tile Shop, who would also be able to sit on an Independent Transaction Committee of the Board evaluating such matters as related party transactions and any future deregistration of Tile Shop's common stock. In selecting a slate of new directors to join the Board following the annual meeting of Tile Shop stockholders in 2020, the Board considered the independence of potential new directors as well as the experience and skills that the potential new directors could bring to the Board to meet the evolving needs of the Company. In

order to address the independence concerns raised by the Plaintiffs in this litigation, the Board identified its potential slate of new directors to Lead Counsel and Plaintiffs to assess the independence and qualifications of the new directors and, in conjunction with the process of settling the case and in an effort to provide service to the Company, the Lead Counsel and Plaintiffs investigated and interviewed each of the potential new directors and determined that the Company's slate included two directors who met Plaintiffs' independence and qualifications requirements and that those two directors would be able to sit on the Independent Transaction Committee.

V. The Company, Defendants' counsel and Lead Counsel have agreed to consult on an appropriate online course, session or seminar relating to the fiduciary duties and responsibilities of public company directors. The Company has agreed to recommend to each new director elected at its 2020 Stockholders Meeting who does not have prior experience serving on a public company board that the director participate in such educational session or its equivalent prior to the end of 2020 at the expense of the Company.

W. Prior to reaching agreement on the principal terms of the Settlement on June 30, 2020, the Parties did not discuss the amount of any potential application by Lead Counsel for attorneys' fees and expenses.

X. After reaching agreement on the principle terms of the Settlement, the Parties discussed – but could not agree – on a reasonable attorney's fee relating to

the non-monetary components of the Settlement. Thereafter, the Parties requested Vice Chancellor McCormick to recommend an appropriate attorney's fee relating to the non-monetary components of the Settlement. The Parties agreed that Plaintiffs would not seek more than the amount recommended by Vice Chancellor McCormick and that Defendants would not contest an application for an award in such amount. The Parties submitted briefing on the issue to Vice Chancellor McCormick. On August 5, 2020, Vice Chancellor McCormick made a written and reasoned recommendation that the parties should agree to an attorney's fee award of \$2,700,000 in connection with the non-monetary components of the Settlement, subject to the approval of the Court.

Y. This material terms of this Stipulation were reviewed by Vice Chancellor McCormick, and this Stipulation has been executed by the undersigned signatories on behalf of their respective clients and reflects the final and binding agreement between the Parties, subject to the approval of the Court as set forth herein.

Z. Based upon their investigation, prosecution and mediation of the case, Plaintiffs and Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Plaintiffs, the Settlement Class, and the Company, and in their best interests. Based on Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, Plaintiffs have agreed

to settle and release the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering, among other things: (a) the substantial benefits and protections provided under the Settlement; (b) the significant risks of continued litigation and trial; and (c) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation.

AA. This Stipulation constitutes a compromise of matters that are in dispute between the Parties. Defendants are entering into this Stipulation solely to eliminate the uncertainty, burden and expense of further protracted litigation. Each of the Defendants denies any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted. Defendants expressly deny that Plaintiffs have or could have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever.

**NOW THEREFORE**, it is hereby **STIPULATED AND AGREED**, by and among Plaintiffs (individually and on behalf of the Settlement Class and derivatively on behalf of the Company) and Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court, that, in consideration

of the benefits flowing to the Parties from the Settlement, all claims shall be settled and released, upon and subject to the terms and conditions set forth below.

### *Definitions*

1. As used in this Stipulation, the following terms shall have the following meanings:

a. “Action” means the consolidated stockholder class and derivative action in the above captioned matter, pending in the Court of Chancery of the State of Delaware.

b. “Administration Costs” means the costs, fees, and expenses that are incurred by the Claims Administrator and/or the expenses of Lead Counsel in connection with administering the Settlement, including but not limited to the Claims process, as well as the costs, fees, and expenses incurred in connection with the Escrow Account.

c. “Authorized Claimant” means a Settlement Class Member who submits a Claim to the Claims Administrator that is approved for payment from the Net Cash Settlement Fund.

d. “Complaint” means the Verified Class Action and Derivative Complaint filed with the Court on November 5, 2019.

e. “Court” means the Court of Chancery of the State of Delaware.

f. “Claim” means a paper claim submitted on a Proof of Claim Form or an electronic claim that is submitted to the Claims Administrator.

g. “Claim Form” or “Proof of Claim Form” means the form, substantially in the form of Exhibit A attached hereto, that a Claimant must complete and submit should that Claimant seek to share in a distribution of the Net Cash Settlement Fund.

h. “Claimant” means a person or entity who or which submits a Claim to the Claims Administrator seeking to be eligible to share in the distribution of the Net Cash Settlement Fund.

i. “Claims Administrator” means the firm retained by Lead Counsel, subject to the approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Settlement.

j. “Current Tile Shop Stockholders” means of all record and beneficial holders of Tile Shop Common Stock as of June 30, 2020.

k. “Defendants” means the Individual Defendants and the Company.

l. “Defendants’ Counsel” means the law firms of Sperling & Slater, P.C., 55 W. Monroe Street, Suite 3200, Chicago, Illinois 60603; Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801; Fox Rothschild LLP, 919 N. Market Street, Suite 300 Wilmington, Delaware

19801; and Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, 16th Floor P.O. Box 1347, Wilmington, Delaware 19899, and any of their partners, principals, of counsel, associates or employees.

m. “Effective Date of the Settlement” means the earliest business day after the occurrence of all of the events specified in paragraph 31.

n. “Final Approval” of the Settlement means that the Court has entered a Final Judgment, substantially in the form of Exhibit B, certifying the Settlement Class, approving the Settlement, dismissing the Action with prejudice on the merits and with each party to bear its own costs (except as otherwise expressly set forth herein relating to the costs of notice and attorneys’ fees and expenses) and providing for a full and complete release of the Released Claims as against the Released Persons, and such Final judgment is final and no longer subject to further appeal or review, whether by affirmance on or exhaustion of any possible appeal or review, writ of certiorari, lapse of time or otherwise; provided, however, and notwithstanding any provision to the contrary in this Stipulation, that Final Approval shall not include (and the Settlement is expressly not conditioned on) the approval of attorneys’ fees and the reimbursement of expenses to Plaintiffs’ Counsel as provided in paragraphs 25-30 below, and any appeal related thereto.

o. “Final Judgment” means, following final approval of the Settlement by the Court, the Order and Final Judgment to be entered by the Court, substantially in the form of Exhibit B attached hereto.

p. “Lead Counsel” means the law firm of Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, New York, New York 10020 and any of its partners, principals, of counsel, associates or employees.

q. “Notice” means the Notice of Pendency and Proposed Settlement of Class Action, substantially in the form of Exhibit C attached hereto, that is to be sent to Settlement Class Members and Current Tile Shop Stockholders.

r. “Notice Costs” means the expenses that are incurred in connection with providing notice to the Settlement Class and Current Tile Shop Stockholders, all of which shall be borne by Defendants.

s. “Order for Notice and Hearing” means the proposed scheduling order to be entered by the Court, substantially in the form of Exhibit D as attached hereto.

t. “Outside Stockholders” means Tile Shop’s public stockholders excluding Defendants, any director or officer of Tile Shop and their immediate family members, affiliates, or entities they control and the employees thereof.

u. “Parties” means collectively each of the Defendants and each of the Plaintiffs, on behalf of themselves and the Settlement Class Members.

v. “Person” means any individual, corporation, partnership, limited liability company, association, affiliate, joint stock company, estate, trust, unincorporated association, governmental entity and any political subdivision thereof, or any other type of business, personal, political, or legal entity.

w. “Plaintiffs’ Counsel” means Lead Counsel and all other legal counsel who, at the direction and under the supervision of Lead Counsel, performed services on behalf of the Settlement Class in the Action.

x. “Released Claims” means, collectively, the Released Defendants’ Claims and the Released Plaintiffs’ Claims.

y. “Released Defendants’ Claims” means any and all claims (including for costs, attorneys’ fees or expenses), including Unknown Claims, arising out of or relating to the filing, prosecution, subject matter and settlement of the Action, except for claims relating to the enforcement of the Settlement.

z. “Released Plaintiffs’ Claims” means, to the fullest extent permitted by law, any and all claims (including for costs, attorneys’ fees or expenses), including Unknown Claims, (i) arising out of or based upon the allegations, transactions, facts, matters, representations, or omissions involved, set forth, or referred to in the Complaint and/or other pleadings, motions or orders filed in the Action or (ii) relating to Settlement Class Members’ ownership of Tile Shop

common stock as of October 18, 2019, except for claims relating to the enforcement of the Settlement.

aa. “Released Defendants’ Persons” means (i) Defendants; (ii) any person or entity who is, was or will be related to or affiliated with (as those terms are defined under 17 C.F.R. § 229.404 and 17 C.F.R. § 240.12b-2) Defendants; (iii) the past and present directors and officers of the Company; (iv) the entities owning the Kamin and Jacullo Post-Announcement Shares on November 8, 2019; and (v) the respective past, present or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, parents, subsidiaries, divisions, affiliates, associated entities, principals, officers, directors, managing directors, members, managers, predecessors, predecessors in interest, successors, successors in interest, bankers, attorneys, and insurers of each and all of the foregoing.

bb. “Released Persons” means, collectively, the Released Defendants’ Persons and the Released Plaintiffs’ Persons.

cc. “Released Plaintiffs’ Persons” means (i) Plaintiffs, Settlement Class Members, and Plaintiffs’ Counsel; (ii) any person or entity who is, was or will be related to or affiliated with (as those terms are defined under 17 C.F.R. § 229.404 and 17 C.F.R. § 240.12b-2) Plaintiffs, Settlement Class Members, and Plaintiffs’ Counsel; (iii) the past and present directors, officers, and partners of

Plaintiffs, Settlement Class Members, and Plaintiffs' Counsel; and (iv) the respective past, present or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, parents, subsidiaries, divisions, affiliates, associated entities, principals, officers, directors, managing directors, members, managers, predecessors, predecessors in interest, successors, successors in interest, bankers, attorneys, and insurers of each and all of the foregoing.

dd. "Settlement" means the settlement contemplated by this Stipulation, inclusive of all of its terms.

ee. "Settlement Class" means a non-opt-out class, certified for settlement purposes only, consisting of all record and beneficial holders of Tile Shop Common Stock as of October 18, 2019, but excluding: Defendants; any affiliate (as defined in 17 C.F.R. § 230.405) of the Individual Defendants; any parents, affiliates, or subsidiaries of the Company; any officer or director of the Company; members of the immediate families of the Individual Defendants and of any officer or director of the Company; Defendants' directors' and officers' liability insurance carriers and any parents, affiliates, or subsidiaries thereof; persons who held shares of Tile Shop common stock that were borrowed as part of a short sale transaction (only with respect to their holdings in such borrowed shares); and the legal representatives, agents, heirs, successors, and assigns of any such excluded Person.

ff. “Settlement Class Member” means a person who falls within the definition of the Settlement Class.

gg. “Settlement Hearing” means the final hearing to be held by the Court to determine whether the Settlement should be approved.

hh. “Summary Notice” means the Summary Notice of Pendency and Proposed Settlement of Class Action, substantially in the form of Exhibit E attached hereto, to be published as set forth in the Order for Notice and Hearing.

ii. “Taxes” means: (i) all federal, state and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Cash Settlement Fund; and (ii) the expenses and costs incurred by Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the Cash Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

jj. “Unknown Claims” means claims that the Plaintiffs (and/or their counsel), for themselves and on behalf of the Settlement Class, and Defendants do not know or suspect to exist at the time of the releases contemplated herein. With respect to any of the Released Claims, Plaintiffs and Defendants stipulate and agree that upon the Effective Date, Plaintiffs and Defendants shall expressly and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived, relinquished and released any and all

provisions, rights and benefits conferred by or under Cal. Civ. Code § 1542 or any law of the United States or any state of the United States or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

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

Plaintiffs and Defendants acknowledge, and the Settlement Class Members by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of Plaintiffs and Defendants, and by operation of law the Settlement Class Members, to completely, fully, finally and forever extinguish any and all Released Claims without regard to the subsequent discovery of such additional or different facts. Plaintiffs and Defendants acknowledge, and the Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of “Released Claims” was separately bargained for and was a material element of the Settlement and was relied upon by each and all of the Plaintiffs and Defendants in entering into this Settlement Agreement.

### *Class Certification*

2. Solely for purposes of the Settlement and for no other purpose, Plaintiffs and Defendants stipulate and agree to: (a) certification of the Action as a non-opt out class action pursuant to Delaware Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2) on behalf of the Settlement Class; (b) appointment of Plaintiffs as Class Representatives for the Settlement Class; and (c) appointment of Lead Counsel as Class Counsel for the Settlement Class.

### *Certain Terms of the Settlement*

3. Following negotiations with Lead Counsel and as consideration for the full settlement and release of all Released Plaintiffs' Claims against the Released Defendants' Persons, Defendants agree as follows:

a. **Cash Settlement Fund:** Within fourteen (14) days of the Court's approval of the Settlement, Defendants will cause their Insurers to pay \$12 million in cash (the "Cash Settlement Amount") into an escrow account controlled by Lead Counsel (the "Escrow Account"), subject to the terms of this Stipulation. No later than ten days prior to the Settlement Hearing, Lead Counsel shall provide to Defendants payee information for the Cash Settlement Fund escrow account, including the bank name, bank address, ABA number, account number, account name sufficient to enable payment by wire, IRS Form W-9 and taxpayer id number. The payment date for the Cash Settlement Amount will be extended by any amount

of delay that occurs in the receipt of the payee information described above. In the event the full payment of the Cash Settlement Amount is not timely made and the Settlement is not terminated as provided in this Stipulation, the Cash Settlement Amount will increase by the interest due on the unpaid portion of the Cash Settlement Amount, computed at the Delaware statutory interest rate, beginning on the 15<sup>th</sup> day after the Court's approval of the Settlement and ending when the total amount due has been paid. The Cash Settlement Amount, plus all interest earned thereon (the "Cash Settlement Fund"), less (i) any Taxes; (ii) any Administration Costs; and (iii) any Cash Settlement Fund Award (as defined below) (the "Net Cash Settlement Fund") will be distributed pursuant to a plan of allocation proposed by Plaintiffs (the "Plan of Allocation") and subject to the review and approval of the Court. The Net Cash Settlement Fund shall be allocated and distributed among any of the following: (i) members of the Settlement Class who demonstrate that they sold Company stock during the period from October 22, 2019 through and including November 8, 2019; (ii) members of the Settlement Class who show they are current holders of the Company's stock (i.e., held Tile Shop common stock as of June 30, 2020, the date the Parties reached their agreement in principle to settle the Action); and (iii) the Company. All Administration Costs shall be borne by the Cash Settlement Fund. The Company shall be required to provide reasonable information or support to facilitate the allocation and distribution of the Net Cash Settlement

Fund.

b. **Supplement to the Standstill Commitments:** As a supplement to the Standstill Commitments, Defendants Jacullo, Kamin and Rucker commit not to, directly or through any family member, Individual Defendant and/or affiliate, purchase any shares of the Company's common stock. However, the Company's future grants of equity compensation to the Individual Defendants and members of the Company's board of directors are not covered by the Standstill Commitments and this supplement as long as such grants are substantially consistent with the past practices of the Company and are made in connection with the director's role as a member of the board of directors of the Company. Defendants agree that the Standstill Commitments and their supplemental commitments herein shall be binding and irrevocable and extend until the later of (i) June 1, 2023 and (ii) the date upon which each director's service as a member of the Board ends. Notwithstanding the Director Standstill Commitments and the promises herein, nothing shall preclude the Individual Defendants, the Company's directors, their immediate family members or their affiliates and associates from presenting a non-coercive acquisition proposal, whether by tender offer or otherwise, so long as any such proposal is approved by the Independent Transaction Committee of the Board of Directors of the Company and a majority of the public stockholders.

c. **Continuing Public Disclosures:** Until the earliest of (i) such time as none of the Individual Defendants serve on the Board of Directors of the Company and (ii) three (3) years after the Effective Date of the Settlement, the Company will commit to providing OTC disclosure at or above the level characterized as “Pink Sheet: Current Tier.” This disclosure obligation shall include, at a minimum, quarterly financial reporting with a narrative explanation of the financial statements that the Company believes will enhance a readers’ understanding of its financial condition, changes in financial condition and results of operation, quarterly conference calls for investors, reporting within two business days of any transactions in common stock of the Company by any Individual Defendant, the Company’s Management, members of its Board of Directors or affiliated entities they control, and quarterly disclosure of stockholders holding greater than 5% of the Company’s common stock to the extent known by the Company.

d. **Mirror Voting/Disposition:** Unless the Kamin and Jacullo Post Announcement Shares are disposed of in open market transactions to non-affiliated persons, for a period of three years from the date of purchase all Kamin and Jacullo Post-Announcement Shares shall be voted in any vote of stockholders in the same proportion as the vote of shares held by Outside Stockholders. For purposes of this mirror voting provision, any shares sold by Defendants Kamin or Jacullo in open

market transactions with non-affiliated persons will be deemed, respectively, Kamin and Jacullo Post-Announcement Shares until all such shares have been disposed of.

e. **Modification of the Insider Trading Policy:** The Company shall modify its Insider Trading Policy such that after a public announcement of material information, a period of not less than two full trading days must elapse before persons with prior knowledge of the material information may initiate trades in the securities of the Company. In addition, the Company's Insider Trading Policy will require that the Company's Chief Financial Officer (i) maintain written records of requests by Designated Persons (as defined in the Insider Trading Policy and which includes all members of the Board of Directors) for confirmation of a trading window, including the time such confirmation is provided; and (ii) limit any confirmation of a trading window to a maximum of two business days following such confirmation.

f. **"Majority of the Public Stockholder" Vote:** Subject to stockholder approval (for which Defendants and Plaintiffs shall vote in favor), the Company's Certificate of Incorporation and Bylaws shall be amended as necessary to include, a "majority of the public stockholders" vote (meaning a vote of a majority of the Outside Stockholders) that applies to any subsequent change to the Certificate of Incorporation or Bylaws of the Company, which affects the rights or interests of any directors (unless to an immaterial degree) differently from the stockholders of

the Company who are not directors, including without limitation any reduction in the scope of the responsibilities of the Independent Transaction Committee (described below), or modifies the membership of the Independent Transaction Committee.

g. **Creation of Independent Transaction Committee:** Subject to stockholder approval (for which Defendants and Plaintiffs shall vote in favor), the Certificate of Incorporation shall also be amended to establish an Independent Transaction Committee of the Board of Directors empowered to review, assess and negotiate Company transactions requiring Board approval, involving any of the following:

(1) a material change in the Company's capitalization or corporate structure, including any recapitalization, material share issuance or repurchase, and any stock split or reverse stock split, to the extent such transaction affects the rights or interests of directors differently from the Outside Stockholders;

(2) any proposed change to the structure of the Board of Directors of the Company, including (i) the number of members on the Board; (ii) the terms served by any member of the Board; or (iii) the staggered structure of the Board;

(3) any “Related Party Transaction,” which shall be defined as any transaction with a value in excess of \$500,000.00 between the Company and any director or officer of the Company or their respective family members or affiliates. Related Party Transactions shall also include any transaction between the Company and any Individual Defendant or their respective family members or affiliates with a value in excess of \$500,000.00, excluding those transactions that are offered to all stockholders on identical terms and routine transactions authorized by the Company’s current bylaws (e.g., the payment of reasonable expenses relating to Board service).

(4) any deregistration of the Company’s securities.

The approval of the Independent Transaction Committee shall be required for any of the above-specified transactions or actions, but shall not replace or supersede any requirement that a majority of the entire Board of Directors must also approve a given transaction or action. For a period of at least three years, the member(s) of the Independent Transaction Committee shall not include any of the Individual Defendants, affiliates or their immediate family members. The Independent Transaction Committee shall be initially comprised of Mark Bonney and Linda Solheid, and such directors may not be involuntarily removed from the Independent Transaction Committee during their term as directors.

h. The Individual Defendants and the Plaintiffs agree to vote in favor of the election of Mark Bonney and Linda Solheid as new directors, each of whom the Parties have determined is independent and qualified for Board service. The Individual Defendants currently serving on the Board and Plaintiffs agree that: (i) Mark Bonney shall serve as the chair of the Board's Audit Committee and Independent Transaction Committee for a period of three years; and (ii) Linda Solheid shall serve as a member of the Board's Audit Committee and Nominating and Corporate Governance Committee, and Independent Transaction Committee for a period of one year.

i. The Tile Shop Board of Directors shall be no larger than six (6) total members over the next three (3) years. In the event any of the new directors referenced in Section h. become unable or unwilling to serve out the duration of their term, any replacement directors (whether deemed permanent or temporary) shall only be elected by a vote of stockholders that includes both a majority of all stockholders and majority of the voting Outside Stockholders.

### ***Releases***

4. Upon the Effective Date of the Settlement, Plaintiffs and the Settlement Class will, to the fullest extent permitted by law, release and forever discharge the Released Defendants' Persons from any and all Released Plaintiffs' Claims; provided, however, that the release of the Released Plaintiffs' Claims shall not

include the release of the right to enforce any confidentiality stipulation or other term agreed upon or referenced in this Settlement.

5. Also, upon the Effective Date of the Settlement, Defendants, on behalf of themselves and, to the fullest permitted by law, their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, and any person or entity acting for or on behalf of each of them, will release the Released Plaintiffs' Persons from any and all Released Defendants' Claims; provided, however, that the release of the Released Defendants' Claims shall not include the release of the right to enforce any confidentiality stipulation or other term agreed upon or referenced in this Settlement.

6. Notwithstanding paragraphs 4 and 5 above, nothing in the Final Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Final Judgment.

#### ***Scheduling Order and Notice***

7. As soon as practicable after this Stipulation has been executed, the Parties jointly shall move the Court for the entry of the Order for Notice and Hearing, substantially in the form attached hereto as Exhibit D. Subject to Court approval, the Order for Notice and Hearing will provide for the mailing of the Notice and Claim Form to those members of the Settlement Class and Current Tile

Shop Stockholders as may be identified through reasonable effort and publication of the Summary Notice in the *Investor's Business Daily* and over the PR Newswire.

8. For the purposes of identifying and providing notice to the Settlement Class and Current Tile Shop Stockholders, within five (5) business days of the date of entry of the Order for Notice and Hearing, Defendants shall provide or cause to be provided to the Claims Administrator in electronic format (at no cost to the Cash Settlement Fund, Plaintiffs' Counsel, or the Claims Administrator) a list (consisting of names and addresses) of the record holders of Tile Shop Common Stock as of October 18, 2019 and June 30, 2020.

9. All Notice Costs shall be borne by Defendants, regardless of whether the Court declines to approve the Settlement or the Effective Date otherwise fails to occur.

10. Defendants share with Plaintiffs the administrative responsibility of providing notice to the Settlement Class Members and Current Tile Shop Stockholders in connection with the settlement of the Action and the Settlement Hearing. All Administration Costs shall be borne by the Cash Settlement Fund.

11. Subject to prior Court approval of the form of notice, the Parties will present the Settlement to the Court for hearing and approval as soon as practicable following appropriate notice to the Settlement Class Members and Current Tile

Shop Stockholders and will use their best efforts to obtain expeditiously Final Approval and the dismissal of the Action with prejudice.

***Settlement Administration***

12. Except as provided herein or pursuant to orders of the Court, the Net Cash Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the escrow agent for the Cash Settlement Fund (the “Escrow Agent”) shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or any portion of the funds held by the Escrow Agent may

be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

13. The Parties agree that the Cash Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as administrator of the Cash Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Cash Settlement Fund. Lead Counsel shall also be responsible for causing payment to be made from the Cash Settlement Fund of any Taxes owed with respect to the Cash Settlement Fund. Upon written request by Lead Counsel (with such request specifying the correct name of the Settlement Fund, its address, and its EIN number), Defendants will provide to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e). Lead Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date,

and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

14. All Taxes shall be paid out of the Cash Settlement Fund, and shall be timely paid, or caused to be paid, by Lead Counsel and without further order of the Court. Any tax returns prepared for the Cash Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Cash Settlement Fund shall be paid out of the Cash Settlement Fund as provided herein.

15. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, Released Defendants' Person, or any other person or entity who or which paid any portion of the Cash Settlement Amount shall have any right to the return of the Cash Settlement Fund or any portion thereof for any reason whatsoever, including without limitation, the number or value of Claims submitted or the amounts to be paid to Authorized Claimants from the Net Cash Settlement Fund; provided, however, that, in accordance with the proposed Plan of Allocation, proceeds from the Cash Settlement Fund may be distributed to the Company as a recovery with respect to Plaintiffs' derivative claims.

16. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share of the Net Cash Settlement Fund based upon each

Authorized Claimant's loss amounts compared to the total loss amounts of all Authorized Claimants (as set forth in the Plan of Allocation set forth in the Notice or in such other plan of allocation as the Court approves).

17. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Plaintiffs and Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. Defendants and the other Released Defendants' Persons shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action, subject to any such plan not containing terms inconsistent with this Stipulation. No Defendant, nor any other Released Defendants' Persons, shall have any involvement with or liability, obligation or responsibility whatsoever for the application of the Court-approved plan of allocation.

18. Any Settlement Class Member who does not submit a valid Claim will not be entitled to receive any distribution from the Net Cash Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for herein and therein, and will be permanently barred and

enjoined from bringing any action, claim, or other proceeding of any kind against the Released Defendants' Persons with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

19. Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Cash Settlement Fund. No Defendant, or any other Released Defendants' Persons, shall be permitted to review, contest, or object to any Claim, or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any Claim for payment. Lead Counsel shall have the right, but not the obligation, to waive what it deems to be formal or technical defects in any Claims submitted in the interests of achieving substantial justice.

20. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

a. Each Claimant shall be required to submit a Claim in paper form, substantially in the form attached hereto as Exhibit A, or in electronic form, in accordance with the instructions for the submission of such Claims, and supported by such documents as are designated therein or such other documents as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

b. All Claims must be submitted by the date set by the Court in the Order for Notice and Hearing and specified in the Notice. Any Settlement Class Member who fails to submit a Claim by such date shall be forever barred from receiving any distribution from the Net Cash Settlement Fund or payment pursuant to this Stipulation, but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Released Defendants' Persons with respect to any Released Plaintiffs' Claim. Provided that it is mailed by the claim-submission deadline, a Claim Form shall be deemed to be submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date when actually received by the Claims Administrator. Notwithstanding any of the foregoing, Lead Counsel shall may, at its discretion, accept late Claims for processing and payment from the Net Cash Settlement Fund;

c. Each Claim shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and the Plan of Allocation the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below as necessary;

d. Claims that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall communicate with the Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the Claim submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (e) below; and

e. If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above or a lesser time period if the Claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court.

21. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Delaware Court of Chancery Rules,

provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claims and no discovery shall be allowed to proceed against the Individual Defendants or any Released Defendants' Persons.

22. Payment pursuant to the terms of this Stipulation shall be final and conclusive against all Claimants. All Settlement Class Members whose Claims are not approved for payment shall be barred from participating in distributions from the Net Cash Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Released Defendants' Persons with respect to any and all of the Released Plaintiffs' Claims.

23. No person or entity shall have any claim against Plaintiffs, Lead Counsel, the Claims Administrator, or any other agent designated by Lead Counsel, or Released Defendants' Persons and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or any order of the Court. Plaintiffs and Defendants, and their respective counsel, shall have no liability whatsoever for the

investment or distribution of the Cash Settlement Fund or the Net Cash Settlement Fund, the plan of allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

24. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court. All Settlement Class Members, other Claimants, and parties to this Settlement expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

***Plaintiffs’ Attorneys’ Fees and Litigation Expenses and  
Plaintiffs’ Incentive Awards***

25. Lead Counsel will apply to the Court for an award of attorneys’ fees, reimbursement of litigation expenses, and incentive awards for Plaintiffs in connection to achieving the Cash Settlement Fund (the “Cash Settlement Fund Award”).

26. Lead Counsel will also apply to the Court for an award of \$2.7 million in attorneys’ fees in connection to achieving the non-monetary benefits identified in paragraph 3 subsections (b) – (g) in this Stipulation of Settlement (the “Non-

Monetary Benefits Award,” collectively with the Cash Settlement Fund Award, the “Fee and Expenses Award.”). Defendants will not contest Lead Counsel’s application for such award.

27. The Cash Settlement Fund Award shall be paid from the Cash Settlement Fund. Defendants will cause their Insurers to pay the Non-Monetary Benefits Award.

28. The amount approved by the Court for the Cash Settlement Fund Award shall be paid to Lead Counsel from the Cash Settlement Fund immediately following the funding of the Cash Settlement Fund, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Lead Counsel’s obligations to make refunds or repayments within five (5) business days if, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or costs award is reduced or reversed by final, non-appealable order or if (i) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement or any material part thereof or finally refuses to enter the Final Judgment in any material respect (other than as to any fees and expenses awards); (iv) any Final Judgment entered by the Court is vacated, modified, revised or reversed in an order that

becomes final and no longer subject to appeal; or (v) the Effective Date as to the Settlement otherwise fails to occur.

29. Defendants will cause their Insurers to make payment to Lead Counsel of the amount approved by the Court for the Non-Monetary Benefits Award within fourteen (14) days of the Court's order granting the Non-Monetary Benefits Award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Lead Counsel's obligations to make refunds or repayments within five (5) business days if, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or costs award is reduced or reversed by final, non-appealable order or if (i) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement or any material part thereof or finally refuses to enter the Final Judgment in any material respect (other than as to any fees and expenses awards); (iv) any Final Judgment entered by the Court is vacated, modified, revised or reversed in an order that becomes final and no longer subject to appeal; or (v) the Effective Date as to the Settlement otherwise fails to occur. No later than ten days prior to the Settlement Hearing, Lead Counsel shall provide to Defendants payee information for the Non-Monetary Benefits Award, including the bank

name, bank address, ABA number, account number, account name sufficient to enable payment by wire, IRS Form W-9 and taxpayer id number. The payment date for the Non-Monetary Benefits Award will be extended by any amount of delay that occurs in the receipt of the payee information described above. In the event the full payment of the Non-Monetary Benefits Award is not timely made and the Settlement is not terminated as provided in this Stipulation, the Non-Monetary Benefits Award will increase by the interest due on the unpaid portion, computed at the Delaware statutory interest rate, beginning on the 15<sup>th</sup> day after the Court's approval of such award and ending when the total amount due has been paid.

30. The Company, Defendants, and Defendants' Counsel shall have no responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fee or litigation expenses, and an award of attorneys' fees, litigation expenses, and/or Plaintiffs' incentive awards is not a necessary term of this Stipulation and is not a condition of the Settlement or a basis for canceling the Settlement.

***Conditions of Settlement; Effect of Disapproval or Termination***

31. The consummation of the Settlement is subject to (i) payment of the Cash Settlement Amount into the Escrow Account in accordance with paragraph 3.a. above; and (ii) Final Approval of the Settlement, which requires entry of a

Final Judgment by the Court, substantially in the form attached hereto as Exhibit B, dismissing the Action with prejudice on the merits and with each party to bear its own costs except as specified in this Stipulation, and providing for a full and complete release of the Released Claims as against the Released Persons.

32. It is further stipulated and agreed that Plaintiffs and Defendants shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so (“Termination Notice”) to the other Parties to this Stipulation within thirty (30) calendar days of: (a) the Court’s final refusal to approve the Settlement or any material part thereof; (b) the Court’s final refusal to enter the Final Judgment in any material respect (other than as to any fees and expenses awards); or (c) the date upon which an order vacating, modifying, revising or reversing the Final Judgment becomes final and no longer subject to appeal. In addition to the foregoing, Plaintiffs shall have the unilateral right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so to Defendants within thirty (30) calendar days of any failure of Defendants’ Insurers to timely make the payments required in paragraphs 3(a) and 29. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an application by Lead Counsel for attorneys’ fees or expenses or with respect to any plan of allocation shall not be considered material

to the Settlement, shall not affect the finality of the Final Judgment and shall not be grounds for termination of the Settlement.

33. If (i) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement or any material part thereof or finally refuses to enter the Final Judgment in any material respect (other than as to any fees and expenses awards); (iv) any Final Judgment entered by the Court is vacated, modified, revised or reversed in an order that becomes final and no longer subject to appeal; or (v) the Effective Date as to the Settlement otherwise fails to occur, then:

a. The Settlement and the relevant portions of this Stipulation shall be canceled and terminated;

b. The Parties shall revert to their respective positions in the Action as of immediately prior to June 30, 2020, the date the Parties reached their agreement in principle to settle the Action;

c. The terms and provisions of this Stipulation, with the exception of this paragraph 33 and paragraphs 9, 28, 29, 32 and 34 of this Stipulation, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Final Judgment or

order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*; and

d. Within fourteen (14) days after written notification of termination is sent by Defendants' Counsel or Lead Counsel to the Escrow Agent, the Net Cash Settlement Fund shall be refunded by the Escrow Agent to Defendants' Insurers.

***No Admission of Wrongdoing***

34. The provisions contained in this Stipulation and all negotiations, discussions and proceedings in connection with this Stipulation shall not be deemed or constitute a presumption, concession or admission by any party to the Action of any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the Action and shall not be interpreted, construed, deemed, involved, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal or administrative, except in connection with any proceeding to enforce the terms of this Stipulation.

35. Each of the Individual Defendants has denied and continues to deny that any of them have committed or threatened to commit any wrongdoing, violation of law or breaches of any duty of any kind to Plaintiffs in the Action, the Settlement Class or anyone.

36. Defendants are entering into the Stipulation solely because the proposed Settlement would eliminate the distraction, burden, risk and expense of further litigation and because Defendants consider it desirable that the Action be settled and dismissed with prejudice.

***Miscellaneous Provisions***

37. The Parties agree that, except as expressly provided herein, the Action shall be stayed pending submission of the proposed Settlement to the Court for its consideration, and Plaintiffs will not initiate any other proceedings other than those incident to the Settlement itself. The Parties' respective deadlines in this Action are extended indefinitely and, to the extent Court action is required to extend such deadlines, the Parties agree jointly to seek such extension.

38. Plaintiffs and their counsel in the Action represent and warrant that none of Plaintiffs' claims referred to in any Complaint in the Action or this Stipulation have been assigned, encumbered or in any manner transferred in whole or in part, and that Plaintiffs are and have been stockholders of the Company throughout the period covered by the Complaint and this Settlement.

39. This Stipulation and the Exhibits constitute the entire agreement among the Parties and supersede any prior oral or written communications, understandings or agreements among the Parties with respect to the subject matter hereof. No representations, warranties or inducements have been made to or relied upon by

any Party concerning this Stipulation or its Exhibits, other than the representations, warranties and covenants expressly set forth in such documents. This Stipulation may be amended, modified or any of its provisions waived only by a writing executed by all the parties hereto.

40. All Parties agree to continue to preserve the confidentiality of documents produced pursuant to the Stipulation and Order for the Production and Exchange of Confidential Information entered in the Action. All deposition transcripts and the substance of any deposition testimony shall be treated as confidential following the execution of this stipulation and shall not be provided or made accessible to any person who is not one of the Parties to this Action, absent a legal obligation to the contrary or an Order of the Court. Nothing herein shall be interpreted to create new limitations on any Parties' submissions in seeking Final Approval of the Settlement from the Court. Within thirty days of the Effective Date of the Settlement, and without further written request, counsel for all Parties shall return or destroy all Confidential Discovery Material in accordance with paragraph 25 of the Stipulation and Order for the Production and Exchange of Confidential Information entered in the Action and shall make a written certification to the producing parties of their good faith and reasonable efforts to accomplish this.

41. The TRO entered by the Court on November 8, 2019, and extended by the Court on February 17, 2020, shall be lifted and the related bond shall be returned to Lead Counsel upon the Effective Date of the Settlement.

42. This Stipulation, and all rights and powers granted hereby, shall be binding on and inure to the benefit of the parties hereto (including all members of the Settlement Class) and their respective agents, executors, heirs, successors and assigns.

43. This Stipulation shall be governed by, and construed in accordance with, the laws of the State of Delaware, exclusive of choice of law provisions. The exclusive forum for the adjudication of any disputes relating to the Settlement shall be the Delaware Court of Chancery (or, if the Court of Chancery is unavailable, any other court in the State of Delaware). Each of the Parties accepts and consents to jurisdiction and waives any objection to venue in the identified courts.

44. Neither the Parties, their counsels, nor any person acting at their direction or on their behalf, shall issue any press release pertaining to the Action or the Settlement until agreed to by all Parties. Nothing herein shall bar the Company from making any filings or public disclosures it determines are necessary or appropriate in consultation with its counsel.

45. This Stipulation will be executed by counsel for the Parties, each of whom represents and warrants that they have the authority from their clients to enter this Stipulation.

46. This Stipulation may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. Signed signature pages of this Stipulation may be delivered by facsimile, e-mail or PDF transmission, which will constitute complete delivery without any necessity for delivery of originally signed signature pages in order for this to constitute a binding agreement.

Dated: August 7, 2020

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

OF COUNSEL:

Mark Lebovitch  
Christopher J. Orrico  
Thomas G. James

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

1251 Avenue of the Americas  
New York, NY 10020  
(212) 554-1400

/s/ Gregory V. Varallo  
Gregory V. Varallo (Bar No. 2242)  
500 Delaware Avenue, Suite 901  
Wilmington, DE 19801  
(302) 364-3601

Jonathan M. Kass (Bar No. 6003)  
**OFFIT KURMAN P.A.**  
1201 North Orange Street  
Wilmington, DE 19801  
(302) 351-0919

*Attorneys for Plaintiffs*

**RICHARDS, LAYTON & FINGER,  
P.A.**

OF COUNSEL:

Greg Shinall  
Steven C. Florsheim  
Matthew H. Rice  
**SPERLING & SLATER, P.C.**  
55 West Monroe St., Suite 3200  
Chicago, IL 60603  
Cleveland, OH 44114  
(312) 641-4873

/s/ Brock E. Czeschin  
Brock E. Czeschin (Bar No. 3938)  
Susan M. Hannigan (Bar No. 5342)  
Angela Lam (Bar No. 6431)  
920 North King Street  
Wilmington, DE 19801  
(302) 651-7700

*Attorneys for Defendants Peter J.  
Jacullo III, Peter H. Kamin, Cabell  
Lolmaugh, Todd Krasnow, and Philip  
B. Livingston*

OF COUNSEL:

Bret A. Puls

**FOX ROTHSCHILD LLP**

222 South Ninth Street, Suite 2000

Minneapolis, MN 55402

(612) 607-7000

**FOX ROTHSCHILD LLP**

/s/ E. Chaney Hall

Carl D. Neff (Bar No. 4895)

E. Chaney Hall (Bar No. 5491)

919 N. Market Street, Suite 300

Wilmington, DE 19801

(302) 622-4274

*Attorneys for Defendant Robert A.  
Rucker*

**MORRIS, NICHOLS, ARSHT  
& TUNNELL LLP**

/s/ Kenneth J. Nachbar

Kenneth J. Nachbar (Bar No. 2067)

Adam T. Nyenhuis (Bar No. 6445)

1201 North Market Street

Wilmington, Delaware 19801

(302) 658-9200

*Attorneys for Nominal Defendant Tile  
Shop Holdings Inc.*