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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

WQH (POR)

UNITED STATES OF AMERICA,

Plaintiff,

v.

KB HOME (previously "Kaufman and  
Broad, Inc." and "Kaufman and Broad  
Home Corporation"),

Defendant.

CIVIL ACTION NO. 91-0872K (BTM)

STIPULATION

WHEREAS, plaintiff, the United States of America (the "United States"), filed a complaint against Kaufman and Broad Home Corporation (later, KB Home) in this Court on June 27, 1991, seeking relief for alleged violations of a final consent order to cease and desist issued by the Federal Trade Commission (the "Commission") on February 12, 1979 to respondent Kaufman and Broad, Inc., predecessor to Kaufman and Broad Home Corporation (the "Commission's Order");

WHEREAS, this Court entered a Consent Decree (the "Consent Decree") on July 2, 1991, requiring Kaufman and Broad Home Corporation to pay a civil penalty and enjoining it, and its successors and assigns, from violating any provision of the Commission's Order;

WHEREAS, pursuant to the Consent Decree, this Court retained jurisdiction for the

1 purpose, *inter alia*, of enabling the parties to apply for further orders or directions regarding the  
2 Consent Decree;

3 WHEREAS, pursuant to the Consent Decree, defendant Kaufman and Broad Home  
4 Corporation paid the required civil penalty;

5 WHEREAS, defendant KB Home is the successor to respondent Kaufman and Broad, Inc.  
6 and defendant Kaufman and Broad Home Corporation and is therefore subject to the terms of the  
7 Commission's Order and the Consent Decree;

8 WHEREAS, Part III.B of the Commission's Order requires defendant KB Home to furnish  
9 new home purchasers with a warranty "that is substantially identical to the insurer's and the  
10 warrantor's undertaking in the Home Owners Warranty Corporation's Home Warranty Agreement  
11 (hereafter referred to as the 'HOW warranty') currently in use and attached hereto as Appendix A  
12 and incorporated by reference in this order, including the procedures for the settlement of disputes;"

13 WHEREAS, the HOW warranty attached to the Commission's Order provides for  
14 mandatory arbitration of warranty disputes with the result binding on defendant KB Home only and  
15 states that "No fee or deposit is required;"

16 WHEREAS, the Commission alleges that defendant KB Home has violated Part III.B of the  
17 Commission's Order by furnishing new home purchasers with warranties that:

- 18 (1) provided for arbitration of warranty disputes that is binding on homeowners; and  
19 (2) required homeowners to pay fees and costs to initiate and to conduct warranty dispute  
20 arbitration;

21 WHEREAS, the Commission alleges that defendant KB Home also has violated Part III.B  
22 of the Commission's Order by furnishing new home purchasers with purchase agreements that  
23 required binding arbitration of warranty disputes;

24 WHEREAS, defendant KB Home denies the Commission's allegations and states that it has  
25 been in compliance with the Commission's Order throughout the period, but is willing to amicably  
26 resolve the matter;

27 WHEREAS, the parties have agreed to a settlement of the Commission's allegations and  
28 have negotiated a Modified Consent Decree (attached hereto as Exhibit A), providing for the

1 payment by KB Home of a civil penalty for the alleged violations of the Commission's Order  
2 described above, and the imposition of injunctive relief, including extension of certain  
3 homeowners' warranties, written notification to warranty holders, record keeping requirements,  
4 reporting requirements and a prohibition against violating the Commission's Order;

5 WHEREAS, defendant KB Home has sent to current KB Home warranty holders letters  
6 modifying and clarifying their warranties so that they meet the requirements of Part III.B of the  
7 Commission's Order regarding the resolution of warranty disputes;

8 WHEREAS, the parties seek entry of the Modified Consent Decree to replace the Consent  
9 Decree entered by this Court in 1991;

10 NOW, THEREFORE, IT IS HEREBY AGREED AND STIPULATED, by and between the  
11 parties, that the Consent Decree is hereby modified in the form of the Modified Consent Decree,  
12 attached hereto as Exhibit A;

13 Dated: 8/3/05  
14

15 Of Counsel:

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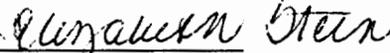
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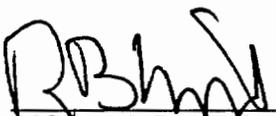
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