

5/16/06

FILED  
AT 9:30 O'CLOCK AM

NO. 2003-CVQ-001553-D3

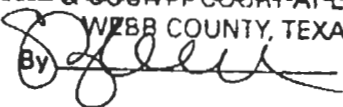
TIMOTHY D. PRUITT, individually  
And on behalf of all other persons in the  
United States similarly situated,

Plaintiffs,

v.

KAUFMAN AND BROAD HOME  
CORPORATION n/k/a KB HOME;  
KB HOME, INC.; KB HOME;  
KB LONE STAR, L.P.; and  
KB HOME-LAREDO, L.P.,

Defendants.

MANUEL GUTIERREZ  
CLERK OF THE DIST. COURTS  
IN THE DISTRICT COURT AT LAW  
WEBB COUNTY, TEXAS  
By  Deputy

WEBB COUNTY, TEXAS

341ST JUDICIAL DISTRICT

**ORDER OF FINAL JUDGMENT AND DISMISSAL WITH PREJUDICE**

**I.**

KB (as defined below) has entered into a Settlement Agreement (the "Agreement") with the Class (as defined below), by and through Class Counsel (as defined below) and the Class Representative (as defined below), to fully and finally release all Settled Claims (as defined below) which have been brought or could have been brought by or on behalf of the Class Members in this Action (defined below).

A. "Action" means the action styled Timothy D. Pruitt v. Kaufman and Broad Home Corp., et al., Cause No. 2003-CVQ-001553-D3, currently pending in the 341st Judicial District Court of Webb County, Texas.

B. "Class" means all current owners of houses built and completed by KB or sold by KB in the State of Texas on or after January 1, 1996.

C. "Class Counsel" means the law firm of Burrow & Parrott, L.L.P., 1301 McKinney Street, Suite 3500, Houston, Texas 77010-3092.

D. "Class Member" means a member of the Class who did not timely and properly file a notice to opt out of the settlement.

E. "Class Representative" means intervening plaintiff Ramon Trevino.

F. "KB" means Kaufman and Broad Home Corporation n/k/a KB Home, KB Home, Inc., KB Home, KB Home Lone Star, L.P., and KB Home-Laredo, L.P. and any of their representatives, employees, predecessors, successors, assigns, subsidiaries, parents, partners, affiliates or related companies.

G. "Settled Claim" or "Settled Claims" means all claims, demands, rights, liabilities, suits, debts, sums of money, damages (including actual, nominal, consequential, statutory, punitive or any other kind of damages), judgments, actions, and causes of action of every kind and character, in law or in equity, whether statutory, contractual or in tort and whether known or unknown, fixed or contingent, suspected or unsuspected, accrued or yet to accrue, asserted or that might properly have been asserted by, or on behalf of, any Class Member against KB in this Action regarding the content, requirements, or form of any dispute resolution procedure contained in any purchase or warranty agreement with KB . A non-exhaustive list of claims that are not covered by the definition of "Settled Claim" and/or "Settled Claims" includes, but is not limited to, any claim a Class Member may have for (i) repair or service under a warranty agreement with KB , (ii) monetary damages for repair or service under a warranty agreement with KB , (iii) monetary damages in connection with any purchase agreement with KB, or (iv) reimbursement of fees or costs paid to initiate and/or to arbitrate a warranty dispute with KB at any time after January 1, 1996, to the extent there exists any Class Member with such a claim.

## II.

After considering all of the papers submitted in support of the proposed settlement and any objections or opposition thereto, and all of the other papers, pleadings and documents on file with the Court, and all of the proceedings in the above-entitled action, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court fully and finally approves the Agreement between the Class Members and KB. The Court finds that the Agreement is fundamentally fair, reasonable and adequate to the Class within the meaning of Rule 42(e) of the Texas Rules of Civil Procedure. The Court also finds that the Agreement protects the rights of the Class, is in the best interests of the Class Members, and meets all other criteria required by Rule 42(e) of the Texas Rules of Civil Procedure.

2. This Court finds that certification of the Class for purposes of settlement is appropriate within the meaning of Rule 42 of the Texas Rules of Civil Procedure.

3. This Court adopts all terms and provisions of the Agreement and hereby incorporates herein the Agreement, which is attached as Exhibit 1 hereto.

4. This Court determines that the notice given of the Class Action and of the Agreement was the best notice practicable under the circumstances, meets the requirements of both the Due Process Clause of the U.S. Constitution and the Texas Rules of Civil Procedure, and complies with all orders of this Court.

5. Pursuant to the Agreement, judgment is rendered dismissing with prejudice, on the merits, all Settled Claims (as defined above) of all Class Members against KB.

6. The Agreement controls the terms of this Order, and the Class Representative, the Class Members, and the Defendants have agreed to be so bound. Pursuant to the Agreement, the Class Members have released and forever discharged KB from any and all Settled Claims .

7. The Court reserves jurisdiction, without affecting the finality of judgment rendered, over: (a) implementation of the Agreement; (b) any hearing or determination on any application for attorneys fees, costs or expenses in connection with the Action; and (c) administration or enforcement of the Agreement.

8. The Class Members, and each of them, are barred and permanently enjoined from prosecuting, commencing or continuing any of the Settled Claims, as defined in the Agreement, against KB.

9. The Court hereby finds that the individuals and entities described on the attached Exhibit 2 have properly exercised their rights to opt-out of the classes certified in the Action. The individuals and entities described on Exhibit 2 are not bound by the Agreement or this Order of Final Judgment and Dismissal With Prejudice.

SIGNED this 16<sup>th</sup> day of May, 2006.

  
JUDGE PRESIDING

2/22/06.  
FILED  
AT 9:55 O'CLOCK A M

NO. 2003-CVQ-001553-D3

MANUEL GUTIERREZ  
CLERK OF THE DIST. COURTS  
& COUNTY COURT AT LAW

TIMOTHY D. PRUITT, individually  
and on behalf of all other persons in the  
United States similarly situated,

Plaintiffs,

v.

KAUFMAN AND BROAD HOME  
CORPORATION N/K/A KB HOME;  
KB HOME, INC.; KB HOME;  
KB LONE STAR, L.P.; and  
KB HOME-LAREDO, L.P.,

Defendants.

IN THE DISTRICT COURT OF  
By \_\_\_\_\_ Deputy

WEBB COUNTY, TEXAS

341st JUDICIAL DISTRICT

**SETTLEMENT AGREEMENT**

THIS FINAL SETTLEMENT AGREEMENT ("Agreement") is entered into this 21st day of February, 2006, by and among Kaufman and Broad Home Corporation N/K/A KB Home, KB Home, Inc., KB Home, KB Home Lone Star, L.P., and KB Home-Laredo, L.P. on the one hand, and the class representative Ramon Trevino and the members of the Class,<sup>1</sup> by and through Class Counsel, on the other hand, to fully resolve the Settled Claims.

**RECITALS**

WHEREAS, KB is a national developer and retailer of residential houses with operational divisions in a dozen states, including Texas;

<sup>1</sup> Unless otherwise specifically noted, capitalized terms that appear throughout the Agreement are defined as set forth in Section 1 of the Agreement.



**WHEREAS**, when KB sells a house to a person, the person executes a purchase agreement, and at closing, KB provides a warranty covering certain construction defects in the house;

**WHEREAS**, Ramon Trevino, as intervenor and Class Representative, brought this action against KB seeking certification of a class of persons who bought houses from KB . In the Fourth Amended Petition, the Class Representative seeks (i) a decree judicially declaring invalid any arbitration provision that is binding on the homeowner or requires payment by the homeowner of any expense of arbitration; (ii) notice to members of the proposed class informing them of the judicial declaration; and (iii) an injunction preventing KB from enforcing any arbitration clause that is binding on the homeowner or at the homeowner's expense;

**WHEREAS**, the Class Representative has not asserted any claim for damages against KB ;

**WHEREAS**, the Class Representative's Fourth Amended Petition references the 1979 Consent Order and the 1991 Consent Decree;

**WHEREAS**, in August 2005, KB and the Federal Trade Commission agreed to the terms of a Modified Consent Decree (attached hereto as Exhibit A) which modifies the 1991 Consent Decree and is, and continues to be, enforceable by the United States District Court for the Southern District of California;

**WHEREAS**, this Agreement does not and shall not be construed to conflict with the 2005 Modified Consent Decree, nor shall it be construed to deprive or intrude upon the

continuing jurisdiction of the U.S. District Court for the Southern District of California, as described in the 2005 Modified Consent Decree;

**WHEREAS**, KB denies liability and denies that any member of the Class has any right to the remedies that the Class Representative seeks in the Action;

**WHEREAS**, KB and Class Counsel have thoroughly analyzed the legal and factual issues, have consulted with experts and conducted discovery, and have investigated the facts, including, *inter alia*, the inspection of documents produced by KB and by the Class Representative, the review of responses to interrogatories and requests to admit, and the review of depositions of the Class Representative and the parties' respective expert witnesses. KB and Class Counsel also researched the applicable law governing the claims against KB, and KB's defenses to those claims;

**WHEREAS**, the Class Representative and Class Counsel recognize and acknowledge the expense and length of continuing the Action through trial and appeals, as well as the uncertain outcome and risks of litigation. After weighing the costs, risks, and delay associated with continuing litigation against the benefits of settlement as reflected in the Agreement, the Class Representative and Class Counsel have concluded that settlement at this time, and as provided in this Agreement, is in the best interest of the Class;

**WHEREAS**, the Class Representative and Class Counsel have concluded that the settlement reflected by the Agreement is a fair, reasonable, and adequate resolution of the Action;

**NOW, THEREFORE**, it is agreed that in consideration of the promises and mutual covenants set forth in the Agreement, as well as the entry by the Court of Final Judgment, the Class Representative, Class Counsel, and KB hereby enter into the Agreement to fully, finally, and forever resolve, discharge, and settle the Settled Claims.

**1.  
Definitions**

As used in this Agreement, the following terms have the meanings specified below:

- 1.1 “1979 FTC Consent Order” means the consent order entered on February 12, 1979 in *In the Matter of Kaufman and Broad, Inc., et al.*, Docket C-2954, 93 F.T.C. 235.
- 1.2 “1991 Consent Decree” means the consent decree entered on July 9, 1991 in *United States of America v. Kaufman and Broad Home Corp.*, Civil Action No. 910872 K (BTM), in the U.S. District Court for the Southern District of California.
- 1.3 “2005 Modified Consent Decree” means the modified consent decree entered on August 5, 2005 in *United States of America v. KB HOME*, Civil Action No. 91-0872 WQH (POR), in the U.S. District Court for the Southern District of California, a copy of which is attached as Exhibit A.
- 1.4 “Action” means the action styled *Timothy D. Pruitt v. Kaufman and Broad Home Corp., et al.*, Cause No. 2003-CVQ-001553-D3, currently pending in the 341<sup>st</sup> Judicial District Court of Webb County, Texas.
- 1.5 “Class” means all current owners of houses built and completed by KB or sold by KB in the State of Texas on or after January 1, 1996.

*Pruitt v. KB Home  
Settlement Agreement*

- 1.6 “Class Counsel” means the law firm of Burrow & Parrott, L.L.P., 1301 McKinney Street, Suite 3500, Houston, Texas 77010-3092.
- 1.7 “Class Member” means a member of the Class who did not timely and properly file a notice to opt out of the settlement.
- 1.8 “Class Representative” means intervening plaintiff Ramon Trevino.
- 1.9 “Final” means (i) if the Judgment is upheld on appeal, the date of final affirmance on an appeal of the Judgment, the expiration of the time for a petition for or denial of a writ of review of the Judgment and, if review is granted, the date of final affirmance of the Judgment following review pursuant to that grant, or (ii) the date of final dismissal of any appeal from the Judgment, including the expiration of time for requesting rehearing and, if review is sought, the final dismissal of any proceeding on review of the Judgment, or (iii) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Judgment.
- 1.10 “Final Approval Hearing” means the hearing, after notice and preliminary approval, held by the Court to determine (i) whether to certify the Class and approve the settlement of the Action on the terms set forth in the Agreement, and (ii) any award of attorneys fees and expenses.
- 1.11 “Fourth Amended Petition” means the Fourth Amended Petition filed on June 27, 2005 in the Action.
- 1.12 “Judgment” means the Final Judgment and Order of Dismissal to be entered by the Court as set forth in section 6.

- 1.13 “KB ” means Kaufman and Broad Home Corporation n/k/a KB Home, KB Home, Inc., KB Home, KB Home Lone Star, L.P., and KB Home-Laredo, L.P. and any of their representatives, employees, predecessors, successors, assigns, subsidiaries, parents, partners, affiliates or related companies.
- 1.14 “Notice” means written notice of the Agreement sent to members of the Class after Preliminary Approval in the form of Exhibit B, as approved by the Court.
- 1.15 “Preliminary Approval” means the date on which the Court signs the Preliminary Order.
- 1.16 “Preliminary Order” means the Order Conditionally Certifying Class for Settlement Purposes, Granting Preliminary Approval to Settlement, Approving Form of Notice, and Directing Notice to be Sent to Members of the Settlement Class.
- 1.17 “Settled Claim” or “Settled Claims” means all claims, demands, rights, liabilities, suits, debts, sums of money, damages (including actual, nominal, consequential, statutory, punitive or any other kind of damages), judgments, actions, and causes of action of every kind and character, in law or in equity, whether statutory, contractual or in tort and whether known or unknown, fixed or contingent, suspected or unsuspected, accrued or yet to accrue, asserted or that might properly have been asserted by, or on behalf of, any Class Member against KB in this Action regarding the content, requirements, or form of any dispute resolution procedure contained in any purchase or warranty agreement with KB . A non-exhaustive list of claims that are not covered by the definition of “Settled Claim” and/or “Settled Claims” includes,

but is not limited to, any claim a Class Member may have for (i) repair or service under a warranty agreement with KB , (ii) monetary damages for repair or service under a warranty agreement with KB , (iii) monetary damages in connection with any purchase agreement with KB, or (iv) reimbursement of fees or costs paid to initiate and/or to arbitrate a warranty dispute with KB at any time after January 1, 1996, to the extent there exists any Class Member with such a claim.

- 1.18 “Warranty Modification Notification” means the notification given pursuant to the Agreement that advises a Class Member that as of July 16, 2003 (1) the results of any arbitration of a warranty claim will be binding on KB , but will not be binding on the warranty holder, and (2) KB will pay all fees and expenses of the organization that conducts the arbitration, including any fees required to initiate the arbitration and the cost of the arbitrator. The Warranty Modification Notification does not modify, alter, or extend the term or duration of any KB warranty. The Warranty Modification Notification does provide Court mandated and supervised notice of the modified terms of the warranty’s dispute resolution provision.

**2.**

**Warranty Modification Notification**

- 2.1 Within fifteen (15) days of Preliminary Approval, KB and Class Counsel shall confer and agree upon the form and wording of the Warranty Modification Notification.
- 2.2 Within forty-five (45) days of the Judgment becoming Final, KB shall send the Warranty Modification Notification in English and Spanish by First Class U.S. Mail

to the address of every house built and completed by KB or sold by KB in the State of Texas on or after January 1, 1996.

- 2.3 The Warranty Modification Notification shall be sent in an envelope that on its face clearly and conspicuously states, in a manner to be agreed between KB and Class Counsel, "IMPORTANT WARRANTY INFORMATION FOR THE OWNER OF THIS HOUSE" The return address on the envelope will read, "341<sup>st</sup> Judicial District Court of Webb County, Texas, Judge Solomon Casseb, Jr., Presiding,, P.O. Box \_\_\_\_\_, Laredo, TX [    ]. The envelope containing the Warranty Modification Notification shall not contain any other document.
- 2.4 KB shall pay all expenses associated with preparing and sending the Warranty Modification Notification.

### **3.**

#### **The Right to Object or Opt Out**

- 3.1 Class Counsel shall obtain, pay for, maintain and regularly monitor a P.O. Box in Laredo, Texas to which members of the Class shall send all communications about the Agreement, including written objections to the Agreement pursuant to section 3.2 and written decisions to opt out of the settlement pursuant to section 3.3
- 3.2 Class Members who object to the Agreement must do so in writing. All objections must be addressed to Class Counsel at P.O. Box \_\_\_\_\_, Laredo, TX, [.....], and must state specifically those provisions of the Agreement to which objection is made and all reasons for the objection. An objection must be received by Class Counsel at least fifteen (15) days before the Final Approval Hearing to be considered by the

Court. Unless the Court in its discretion directs otherwise, objections to the Agreement will be heard at the Final Approval Hearing. However, any Class Member who intends to appear and object at the Final Approval Hearing must include in their written objection (i) notice of their intention to appear, and (ii) copies of all papers in support of their objection. When it receives an objection, Class Counsel shall stamp the date received on the original writing, serve a complete copy of the date stamped writing on KB's counsel not later than three (3) business days after receipt and, at that same time, file the date-stamped originals with the Court.

- 3.3 The Notice shall provide members of the Class an opportunity and procedure for opting out of the settlement. The Notice shall direct that any member of the Class who desires to opt out shall send written notice of their decision to opt out to Class Counsel at P.O. Box \_\_\_\_\_, Laredo, TX [.....]. Class Counsel shall stamp the date received on the opt-out writing, serve a complete copy of the date stamped opt-out writing on KB's counsel not later than three (3) business days after receipt and, at that same time, file the date-stamped original opt-out writing with the Court. The Notice shall inform members of the Class that if they exercise their right to opt out of the settlement, they may not object to the settlement pursuant to section 3.2.

#### **4.**

#### **Payment of Class Counsel Attorneys Fees and Expenses**

- 4.1 At least seven (7) business days before the Final Approval Hearing, Class Counsel shall file with the Court an application for attorneys fees and expenses, on behalf of itself and any other counsel who seeks fees and expenses for filing, prosecuting, or

settling the Action. KB agrees not to oppose Class Counsel's application to the extent it seeks attorneys fees of \$750,000 or less and to the extent it seeks reimbursement only for expenses actually incurred in bringing and prosecuting the Settled Claims, up to a maximum of \$100,000.

4.2 Within 30 days of the Judgment becoming Final, KB shall pay the attorneys fees and expenses approved by the Court subject to the limits contained in paragraph 4.3.

4.3 If the Court approves the payment of more than \$750,000 in total for attorneys fees or the payment of more than \$100,000 in total for expenses, KB may terminate the Agreement within ten (10) business days after the Court's approval.

4.4 By making the payment called for in section 4.2, KB fully and finally extinguishes its liability for any and all attorneys fees and any and all expenses incurred by any person or entity in connection with the Action. KB shall not have any responsibility for, or incur any liability whatsoever with respect to (a) any dispute or issue any person or entity may have with respect to the award or allocation of Court approved attorneys fees or expenses, or (b) any claim by any person or entity to any portion of the Court approved attorney fees and expenses.

## **5.**

### **Release of KB and Entry of Judgment**

5.1 Class Members hereby RELEASE AND FOREVER DISCHARGE KB from any and all Settled Claims.

- 5.2 Class Members further agree that the Agreement is, and shall be construed to be, a covenant not to sue or institute other legal, equitable, or administrative proceedings against KB for any of the Settled Claims, and further agree that these covenants are made to inure to the benefit of and are to be enforceable by KB .
- 5.3 The Class Representative expressly warrants and represents to KB that: (1) he is legally competent to execute the Agreement, in his capacity as Class Representative; (2) all of the Settled Claims are fully, finally, and forever resolved, discharged, and settled by the Agreement; and (3) he has not assigned, pledged or otherwise sold or transferred, either by instrument in writing or otherwise, any right, title, interest or claim which he has or may have to the Settled Claims.
- 5.4 The Class Representative further expressly warrants and represents to KB that (1) before executing the Agreement, he consulted with counsel and was fully informed of the Agreement's terms, contents, conditions and effects; and (2) no promise or representation of any kind or character has been made by KB or by anyone acting for KB except as is expressly stated in the Agreement. The Class Representative acknowledges that he has relied solely and completely upon his own judgment and the advice of counsel in executing the Agreement and further acknowledges that he fully understands that this is a full, complete, and final release and that neither he nor any other Class Members shall have any further recourse against KB for the Settled Claims.

**6.**

**Judgment To Be Entered By The Court Approving the Settlement**

- 6.1 After the Final Approval Hearing, KB , the Class Representative, and Class Counsel shall request the Court to enter the Judgment.
- 6.2 KB , the Class Representative, and Class Counsel agree that the Judgment must contain the following provisions:
  - 6.2.1 a provision approving the settlement embodied in the Agreement as fair, reasonable, and adequate to the Class within the meaning of Rule 42(e) of the Texas Rules of Civil Procedure,
  - 6.2.2 a provision finding that certification of the Class for purposes of settlement is appropriate within the meaning of Rule 42 of the Texas Rules of Civil Procedure,
  - 6.2.3 a provision dismissing the claims against KB with prejudice and entering a final judgment under the Texas Rules of Civil Procedure,
  - 6.2.4 a provision that the Class Members have released the Settled Claims,
  - 6.2.5 a provision releasing and discharging KB from any and all Settled Claims, which is binding on all Class Members.
  - 6.2.6 a provision identifying any members of the Class who timely and properly opted out of the settlement of the Action, and
  - 6.2.7 a provision barring and permanently enjoining Class Members from prosecuting, commencing, or continuing any of the Settled Claims against KB .
- 6.3 The Court shall continue to have jurisdiction, without affecting the finality of the Judgment entered, to: (a) implement the Agreement; (b) conduct any hearing or make

any determination on any application for attorneys fees, costs or expenses in connection with the Action; and (c) administer and enforce the Agreement.

**7.**

**Conditions And Effectuation Of Settlement**

- 7.1 The Class Representative and Class Counsel shall seek preliminary approval of the Agreement as soon as practicable after the date of the Agreement. The Class Representative and Class Counsel shall request that the Court certify the Class for settlement purposes only, and request that the Court preliminarily approve the terms of the Agreement as fair and reasonable.
- 7.2 Within thirty (30) days after Preliminary Approval, KB shall provide Notice to members of the Class. The Notice will be in the form of Exhibit B, subject to the approval of the Court. The Notice shall be written in English and Spanish and shall be delivered by First Class U.S. Mail to the address of every house built and completed by KB or sold by KB in the State of Texas on or after January 1, 1996. The return address on the envelope containing the notice will read, "341<sup>st</sup> Judicial District Court of Webb County, Texas, Judge Solomon Casseb, Jr., Presiding,, P.O. Box \_\_\_\_\_, Laredo, TX [ ]. KB shall pay the costs of providing Notice as and in the form ordered by the Court.
- 7.3 Within forty-five (45) days after Notice is mailed to the members of the Class, the Class Representative and Class Counsel shall seek final approval of the Agreement.

**8.**

**Right of Termination**

- 8.1 KB shall have the right to terminate the Agreement if (i) the Court approves a total attorneys fee award of more than \$750,000 or (ii) the Court approves a total award of costs and expenses greater than \$100,000. To exercise its right to terminate the Agreement pursuant to this section, KB must give written notice to Class Counsel within five (5) business days after the occurrence of any condition of termination set forth in this section.
- 8.2 KB, the Class Representative, and Class Counsel shall have the right to terminate the Agreement if KB and Class Counsel do not agree upon the form and wording of the Warranty Modification Notification as set forth in section 2.1. To exercise a right to terminate the Agreement pursuant to this section, KB or Class Counsel must give written notice to the other within five (5) business days after the occurrence of the condition of termination set forth in this section.
- 8.3 The agreement will terminate if (i) the Court fails to enter the Preliminary Order, or (ii) the Court fails to enter the Judgment, or (iii) the Court fails to certify the Class.
- 8.4 If the Agreement terminates or is terminated pursuant to sections 8.1, 8.2, or 8.3, KB, the Class Representative, and Class Counsel agree that (i) no member of the Class may rely upon the Agreement, or any portion thereof, in support of class certification, (ii) Class Counsel may not rely upon the Agreement, or any portion thereof, in support of class certification, (iii) KB may not rely upon the Agreement, or any portion thereof, in opposition to class certification, and (iv) nothing in the Agreement shall preclude KB from asserting any argument against class certification.

8.5 If the Agreement terminates or is terminated pursuant to sections 8.1, 8.2, or 8.3, the Class Representative, Class Counsel and KB shall jointly move the Court to reschedule the hearing on the class certification to a date not less than thirty (30) days from the date of termination.

**9.**

**Miscellaneous Provisions**

9.1 None of the following can be used as an admission or as evidence of an admission or concession of liability or fault, or the lack thereof, against any party to the Agreement: (i) the Agreement; (ii) any act or negotiation undertaken or performed in connection with the Agreement; (iii) any document executed, referenced, or filed in furtherance of the Agreement; or (iv) the fact of settlement or the terms of the Agreement.

9.2 Neither KB, KB's counsel, the Class Representative, nor Class Counsel shall offer any of the following into evidence in any action or proceeding in any court, or before any administrative agency or other tribunal, for any purpose whatsoever other than to enforce the provisions of the Agreement: (i) the Agreement; (ii) any act or negotiation undertaken or performed in connection with the Agreement; (iii) any document executed, referenced, or filed in furtherance of the Agreement; or (iv) the fact of settlement or the terms of the Agreement.

9.3 KB, the Class Representative, and Class Counsel, agree to cooperate in good faith to the extent necessary to effectuate all terms and conditions of the Agreement.

- 9.4 Five (5) business days after Judgment is Final, Class Counsel shall transfer the domain names www.kbhomecomplaints.net and www.kbhonestink.net to KB. Class Counsel agrees not to utilize these two domain names in any way between the date of the Agreement and the date of transfer.
- 9.5 This Agreement and its exhibits constitute the entire agreement among the parties hereto, and no representations, warranties or inducements have been made to any party concerning the Agreement or its exhibits other than the representations, warranties and covenants contained in the Agreement and its exhibits.
- 9.6 The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the parties to the Agreement shall exchange among themselves original signed counterparts, and a complete set of original executed counterparts shall be filed with the Court.
- 9.7 The Agreement shall be binding on, and inure to the benefit of, the heirs, successors, and assignees of the parties hereto.
- 9.8 All terms of the Agreement and its exhibits shall be governed by and interpreted according to the laws of the State of Texas as they exist on the date of the Agreement, without regard to the conflicts of law principles.
- 9.9 All parties shall use best efforts to secure approval of the Agreement and to perform all terms and conditions of the Agreement.

- 9.10 All parties submit to the jurisdiction of the 341<sup>st</sup> Judicial District Court of Webb County, Texas for purposes of implementing and enforcing the Agreement.
- 9.11 Counsel for KB and Class Counsel have mutually contributed to the preparation of the Agreement. Accordingly, no provision of the Agreement shall be construed against any party by virtue of which party's counsel drafted any provision.
- 9.12 To avoid miscommunication and the public dissemination of misinformation about the Agreement, KB, KB's counsel, the Class Representative, and Class Counsel agree not to issue any press release or make any public statement or public disclosure concerning or related to the Agreement or to resolution of the Action without the prior written consent of the other parties to the Agreement as to the contents and the manner of presentation and the publication thereof. This is not a confidentiality agreement.

IN WITNESS WHEREOF, the parties and their counsel have executed the Agreement on  
February 21, 2006.

KB HOME;  
KAUFMAN AND BROAD HOME  
CORPORATION N/K/A KB HOME;  
KB HOME, INC.  
KB LONE STAR, L.P.  
KB HOME-LAREDO, L.P.

SUSMAN GODFREY L.L.P.

By: \_\_\_\_\_  
          **Dave Simons**  
  
          **Vice President and**  
Title:           **Associate General Counsel**  
\_\_\_\_\_

By:           *Mary Kathryn Sammons*  
          **Mary Kathryn Sammons**  
          **Counsel for KB Home**

**RAMON TREVINO**

**BURROW & PARROTT, L.L.P.**

          *Ramon Trevino Jr*  
          **Class Representative**

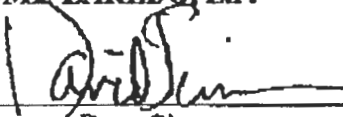
By:           *Alice Oliver-Parrott*  
          **Alice Oliver-Parrott**  
          **Class Counsel**

*Fruitt v. KB Home  
Settlement Agreement*

IN WITNESS WHEREOF, the parties and their counsel have executed the Agreement on  
February 21, 2006.

**KB HOME;  
KAUFMAN AND BROAD HOME  
CORPORATION N/K/A KB HOME;  
KB HOME, INC.  
KB LONE STAR, L.P.  
KB HOME-LAREDO, L.P.**

**SUSMAN GODFREY L.L.P.**

By:   
Dave Simons  
Vice President and  
Title: Associate General Counsel

By: \_\_\_\_\_  
Mary Kathryn Sammons  
Counsel for KB Home

**RAMON TREVINO**  
\_\_\_\_\_  
Class Representative

**BURROW & PARROTT, L.L.P.**  
By: \_\_\_\_\_  
Alice Oliver-Parrott  
Class Counsel



8.	Geneen Paul 6920 Flatstone Pass Converse, Texas 78109 210-844-7768	4/13/06	4/01/06
9.	Duc Huynh 2420 Carson Trail Grand Prairie, Texas 75052	4/13/06	4/06/06
10.	Willie M. Epps 2566 Smokey Creek Schertz, Texas 78145	4/13/06	4/03/06
11.	D. Vidrine	4/20/06	4/20/06
12.	Cheryl R. Olivieri 15702 Knollvista San Antonio, Texas 78247	4/20/06	4/04/06
13.	Vicente Antonio Rodriguez 7622 Allendate Peak San Antonio, Texas 78254	4/20/06	4/12/00 6
14.	Robert and Patricia Castaneda 8224 Midway Depot San Antonio, Texas 78255 210-698-2746	4/20/06	4/13/06
15.	Quoc Tran 17146 Carshalton Houston, Texas 77084	4/20/06	4/10/06
16.	Carlan D. Walker Jr. 10,006 Silberbrook Place San Antonio, Texas 78254	4/20/06	4/10/06
17.	Donald R. and Melissa Ashcroft 125 Corral Fence -, Texas 78108 210-945-4166	5/03/06	5/01/06
18.	Robin and Joy Ream 2311 Tristan Run San Antonio, Texas 78259 attorney: Michael Gayler-210-582-5887	5/03/06	4/27/06
19.	Elvia B. Saldana Arlington, Texas	5/03/06	4/26/06

20.	Wiley and Eleanor Jean Amick 1315 Stevens Court Rosenberg, Texas 77471-2171	5/03/06	4/26/06
21.	Darlene M. Mayer 10038 Silverbrook Place San Antonio, Texas 78254-6024 210-684-2830-home 210-394-3734-cell	5/03/06	4/21/06
22.	Sam Oeun Norng 5817 Malarkey Road Del Valle, Texas 78617	5/03/06	4/14/06
23.	Rogelio T. Hernandez Eva Hernandez 1005 Keeshound Place Round Rock, Texas 78664	5/03/06	4/02/06
24.	Mario Alberto and Michelle Lynn Garcia 6838 Evercrest Ln San Antonio, Texas 782389 (?)	5/03/06	3/29/06
25.	Juan Angel Salinas 520-495-5369	5/03/06	?
26.	Stuart Crenshaw 1620 Crown Point Dr. Frisco, Texas 75034	5/03/06	?
27.	Mr. and Mrs. Quirico Pena 3238 Coldwater Canyon Ln. Katy, Texas 77449-8117	5/08/06	4/28/06
28.	Juana Gaddy 8450 Village Hollow Ln Houston, Texas 77072	5/10/06	4/30/06
29.	Charlotte Oneille Adams 2618 Sunview Lake San Antonio, Texas 78245 210-455-7134	5/10/06	4/26/06

30. Maria Whitley  
1172 Warrior Drive  
Dallas, Texas 75253

4/19/06 4/19/06