

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

IN RE: CHINESE MANUFACTURED DRYWALL : MDL No. 2047
PRODUCTS LIABILITY LITIGATION : Section L

_____ :

This Document Relates to : JUDGE FALLON
ALL CASES : MAG. JUDGE WILKINSON

PRETRIAL ORDER #21

The Court received a draft copy of a retailer profile form from the parties in the above captioned matter. The parties have indicated that they agreed on this draft. The Court has considered the draft. Accordingly, IT IS ORDERED that the following Retailer Profile Form and the accompanying "Exhibit A" are now entered into the record. IT IS FURTHER ORDERED that retailer parties are to comply with the mandates of Pretrial Order #1 and #1E regarding completion and submission of the Retailer Profile Form.

New Orleans, Louisiana, this 6th day of April, 2010.



U.S. District Judge

RETAILER PROFILE FORM

All Defendant Drywall Retailers must complete and submit this Defendant Retailers' Profile Form. Additionally, each Defendant Drywall Retailer must sign and date Exhibit A to the Defendant Retailers' Profile Form for each property owned, rented or occupied by persons who are named Plaintiffs in suits pending in the MDL. The term "Chinese Drywall or Wallboard" encompasses all wallboard of Chinese origin or manufacture without reference to whether the particular wall board has been found to be defective. If additional knowledge becomes known after completion, this Defendant Retailers' Profile Form must be supplemented. If additional space is needed to answer any questions or complete your responses, additional pages may be attached. The questions contained within this Profile Form are non-objectionable and shall be answered without objection. By answering this Profile Form, you are not waiving the attorney work product and/or attorney client privileges. Similarly, by disclosing the identity of consultants, such consultants may remain non-testifying experts and are subject to all protections afforded by law. Please print legibly or type your responses in English.

I. IDENTIFICATION AND CONTACT INFORMATION

- A. Retailer's Name: _____
- B. Retailer's Address: _____
- C. Retailer's Website: _____
- D. Headquarters if Foreign: _____
- E. Address of USA Headquarters: _____
- F. Name of supervisor at USA Headquarters: _____
- G. Principal Place of Business in USA: _____
- H. Has Retailer operated under any other names from 2001 to 2009? If so, please list and explain for each different locale. _____
- I. Did Retailer also install Chinese Drywall? If so, describe involvement as installer. _____

II. COUNSEL INFORMATION OF DEFENDANT RETAILER

- A. Name: _____
- B. Address: _____
- C. Phone Number: _____
- D. Fax Number: _____
- E. Email: _____

III. RETAILER'S PURCHASE OF CHINESE DRYWALL

For each purchase of Chinese Drywall between 2001 and 2009, please describe all sources from which Retailer purchased Chinese drywall, including manufacturers, exporters, importers, distributors, sales agents, and/or sales brokers. Attach additional sheets as necessary.

A. Source:

1. Name of Chinese Drywall Manufacturer, if known: _____

2. Address of Chinese Drywall Manufacturer, if known: _____

3. Name of Chinese Drywall Product, if known: _____

4. Dates of purchase(s): _____

5. Total Volume of received Chinese Drywall product: _____

6. Identify any markings on the Chinese Drywall product (e.g., lot number, batch number, serial number, color markings, UPC codes, etc.): _____

7. List all trade marks of the product, if known: _____

8. The name and address of any importer, exporter, purchasing agent, or sales broker involved or referenced in any way with respect to your purchases of Chinese Drywall: _____

9. If known, prior to your receipt of or taking title to the Chinese Drywall, if any of your Chinese

Drywall was stored at any time by or for you at any location, identify the following:

Name of entity providing storage: _____

Address of entity providing storage: _____

Dates product was stored:

____/____/____ (Month / Day / Year) to ____/____/____ (Month / Day / Year)

Quantity of product stored: _____

Price paid for storage: _____

Name of contact person at storage facility: _____

Phone number: _____

Email address: _____

List any complaints made or received regarding storage of the product:

IV. RETAILER’S ABILITY TO TRACK SALES AND SHIPMENTS OF CHINESE DRYWALL TO ITS CUSTOMERS

Please state whether you are able to track the sales and deliveries of Chinese Drywall to your customers. Please provide a description of your sales and shipping tracking procedures, including a description of database accessibility of this information and the name and address of the person or persons with knowledge of the same.

V. INSURANCE

Identify all CGL, Product Liability, Builder's Risk, D&O, excess insurance policies, as well as any other policies that provide coverage commonly described or generally understood to provide coverage afforded by such policies regardless of their name or title relating to the claims.¹

- 1. For each policy, identify the following:

Insurer: _____

Dates policy in effect:

____/____/____ (Month/Day/Year) to ____/____/____/(Month/Day/Year)

Policy Number: _____

Type of Policy: _____

Insurance Agent: _____

Policy Coverage Limits: _____

¹ Listing policies does not purport to represent coverage status.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States of America and pursuant to 28 U.S.C. § 1746 that all information provided in this Retailer Profile Form is true and correct to the best of my knowledge, and that I have supplied all of the documents requested in this declaration, to the extent that such documents are in my possession, custody or control.

Date

Entity

By: _____

Its: _____

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**This Document Relates to : JUDGE FALLON
ALL CASES : MAG. JUDGE WILKINSON**

**EXHIBIT A
RETAILER PROFILE FORM**

Each Defendant Drywall Retailer must complete and sign a separate Exhibit A for any individual named Plaintiff with an action pending in the MDL Federal Court proceeding. The term “Chinese Drywall” or “Wallboard” encompasses all wallboard of Chinese origin or manufacturer without reference to whether the particular wallboard has been bound to be defective. If additional knowledge becomes known after completion, this Defendant Retailer Profile Form must be supplemented. If additional space is needed to answer any questions or complete your responses, additional pages may be attached. In addition, if any attachments or documents are provided in response to any question, please identify the specific question within this Defendant Retailer Profile Form that relates to the specific attachment or document. The questions contained within this Profile Form are non-objectionable and shall be answered without objection. By answering this Profile Form, you are not waiving the attorney work product and/or attorney client privileges. Similarly, by disclosing the identity of consultants, such consultants may remain non-testifying experts and are subject to all protections afforded by law. Please print legibly or type your responses in English.

I. INFORMATION ON PLAINTIFF PROPERTY OWNER, RENTER OR OCCUPANT (to be provided by Plaintiff, after which Defendant Retailer will have fifteen (15) days to return this form)

- A. Name: _____
- B. Address of Affected Property: _____
- C. MDL Case Docket No.: _____

II. INFORMATION ON SPECIFIC PROPERTIES

- A. For each property identified in Section I above, answer the following:
 - 1. Do you have any contracts or agreements concerning Chinese Drywall contained in the Property?
Yes _____ No _____

2. Did you issue any warranties for any Chinese Drywall installed in the property?
Yes _____ No _____

3. Did you issue any warranties for any Chinese Drywall supplied to the property?
Yes _____ No _____

4. (a) Have you had any correspondence or other communication concerning Chinese Drywall or any construction or remediation at the property?
Yes _____ No _____

(b) If yes, provide the following information:
Who was the correspondence or communication by, between or among?

5. (a) Have you performed any inspection(s), testing or analysis of the property?
Yes _____ No _____

(b) If yes, provide the following information:
(i) Who performed the inspection, testing or analysis?

(ii) When was the inspection, testing or analysis performed?

(iii) Did the testing confirm the presence of Chinese Drywall in this property?
Yes _____ No _____

(c) Were you able to determine any of the following information for the subject property?
(i) Manufacturer of the Chinese Drywall

(ii) Importer/Distributor into the US

(iii) Builder/Developer

(iv) Installer/Contractor

(d) As a result of the inspection, were you able to make a determination of the amount and/or percentage of Chinese Drywall contained in the subject property?
Yes _____ No _____

(e) If yes, what amount or percentage of Chinese Drywall was found?

6. (a) Has any sampling of Drywall been performed of the property?

Yes _____ No _____

(b) If yes, provide the following information:

Name and address of entity that performed the sampling:

7. (a) Have any written statements been taken in connection with the property or claim?

Yes _____ No _____

(b) If yes, provide the following information:

Who provided the statement?

8. (a) Have any communications or correspondence regarding the property taken place with any Drywall contractor/installer, builder, distributor in the USA, importer to the USA, exporter from China or manufacturers of Drywall?

Yes _____ No _____

(b) If yes, provide the following information:

Who was the correspondence or communication by, between or among?

9. (a) Have you had any communication concerning the subject property regarding the presence of Chinese Drywall with any foreign or domestic governmental agency or representative?

Yes _____ No _____

(b) If yes, provide the following information:

Who was the communication by, between or among?

10. (a) Have you received a request from anyone to repair the subject property?

Yes _____ No _____

(b) If yes, from whom did you receive the request?

CERTIFICATION

I declare under penalty of perjury under the laws of the United States of America and pursuant to 28 U.S.C. §1746 that all information provided in the Exhibit A to the Retailer Profile Form is true and correct to the best of my knowledge, and that I have supplied all of the documents requested in this declaration, to the extent that such documents are in my possession, custody or control.

Signature

Print Name

Date