

DISTRICT COURT  
CLARK COUNTY, NEVADA

IN RE KITEC FITTING LITIGATION

Case No.: A493302

Dept. No.: XVI  
(ELECTRONIC FILING CASE)

NOTICE OF PRELIMINARY APPROVAL OF SETTLEMENT  
NOTICE OF FAIRNESS AND GOOD FAITH SETTLEMENT HEARING

Hearing Date & Time: NOVEMBER 17, 2010, at 1:15 p.m.

*A court of law authorized this Notice. It is not from a lawyer. You are not being sued.*

**TO: OWNERS OF RECORD OF CHAMPION SUBCLASS B HOMES CONTAINING KITEC PLUMBING SYSTEMS INSTALLED BY SHARP PLUMBING AS DEFINED BELOW – YOUR LEGAL RIGHTS ARE AFFECTED WHETHER OR NOT YOU ACT. PLEASE READ THIS ENTIRE NOTICE CAREFULLY.**

**PURPOSE OF THIS NOTICE:** This Notice is being mailed to 60 owners of record of homes constructed by Champion Homes Nevada, Inc. (“Builder”) in the Clearwater Canyon development that were plumbed by Sharp Plumbing, Inc. (“Plumber”) and are believed to contain Kitec or PlumbBetter plumbing systems (hereinafter “the Sharp-Plumbed Homes”) to notify these class members that a settlement has been reached with plumber with respect to the Sharp-Plumbed Homes that will create a settlement fund for the benefit of the owners of the Sharp-Plumbed Homes (“the Sharp Settlement”). **Do not hire or contact an independent plumber to perform a replumb. Please read this notice in its entirety for information regarding your rights to the benefits of the Settlement.**

**FAIRNESS & GOOD FAITH SETTLEMENT HEARING:** The Court has issued an Order of Preliminary Approval of the Sharp Settlement and set a Fairness and Good Faith Settlement Hearing (“Fairness Hearing”) to consider the fairness, adequacy, and reasonableness of the Sharp Settlement. **The hearing will be held on NOVEMBER 17, 2010, at 1:15 p.m., in the Eighth Judicial District Court, Dept. 16, Courtroom 12D of the Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, Nevada.**

YOUR LEGAL RIGHTS AND CHOICES		DUE DATE
<b>WITHDRAW YOUR PRIOR REQUEST FOR EXCLUSION FROM THE CLASS (“OPT-OUT”) AND SUBMIT REQUEST TO REJOIN</b>	If you previously filed a request for exclusion from the class (“Opt-Out”) but wish to take part in this Settlement and receive the benefits it provides, you may withdraw your prior Opt-out by submitting a Request to Rejoin the Sharp Settlement. After your Request to Join the Sharp Settlement is received, you will be eligible to receive the benefit contemplated by the Settlement.	NOVEMBER 8, 2010
<b>ACCEPT SETTLEMENT &amp; SEND IN CLAIM FORM</b>	If you wish to receive the benefits as set forth in this Settlement, you must return the claim form that will be mailed to you after this Settlement receives final approval by the Court.	TO BE DETERMINED
<b>OBJECT TO SETTLEMENT</b>	You may write to the Court to raise concerns you have about this Settlement. Class Counsel will provide all objections to all parties and the Court.	NOVEMBER 8, 2010
<b>APPEAR AT FAIRNESS HEARING</b>	You can ask to speak to the Court about the fairness of this Settlement at the Fairness Hearing by submitting written Notice of Appearance by the Due Date.	NOVEMBER 8, 2010
<b>DO NOTHING</b>	If you do nothing, <b>you will be bound by this Settlement</b> and will be eligible to receive the benefits of the Settlement if your home is one of the Sharp-Plumbed Homes.	N/A

Your rights and options under this Settlement – **and the Due Dates for each** – are explained in this Notice.

- The Court must still decide whether to approve this proposed Settlement. The benefits contemplated by this Settlement will be distributed after the Court approves the Settlement and after all appeals, if any, are ruled upon.
- This Notice is not an opinion of the Court about the merits of the claims or defenses of the parties in the lawsuit. Instead, this Notice is sent to you to inform you about legal rights you may have with respect to this Settlement.

## **BASIC INFORMATION**

### **1. Why did I get this Notice?**

This Notice is given to you pursuant to an Order by the Honorable Timothy C. Williams of the Eighth Judicial District Court, Clark County, Nevada, preliminarily approving this Partial Class Settlement under Rule 23 of the Nevada Rules of Civil Procedure. You received this Notice because our records indicate that you may be a member of the Class who is impacted by this Partial Settlement. **(If you are a tenant or occupant of a home at this address, please ensure that this Notice is provided to the landlord or owner of the home.)** You have legal rights and choices to make before the Court decides whether to finally approve this Settlement. This notice package explains:

- What this lawsuit is about.
- Your legal rights.
- The benefits and consequences of this settlement for eligible recipients.

### **2. What is this lawsuit about?**

This is a case arising from allegedly defective Kitec plumbing systems and/or components (“Kitec”) manufactured or distributed by or on behalf of Defendants Ipex Inc., and Ipex USA, LLC (collectively, “Ipex Defendants”), and installed at homes in Clark County, Nevada. Plaintiffs are homeowners in Clark County with residences that have or had Kitec plumbing system and/or components specified and/or installed by various Developers, General Contractors and/or Plumbers. Plaintiff Class Representatives have alleged that the Kitec plumbing systems or components in Clark County, Nevada, are defective because they fail or may fail when exposed to water. This Class Action seeks money damages together with attorneys’ fees and costs of suit from the Defendants on behalf of all Class Members. **This Class Action does not seek any damages for personal injury.**

### **3. What will this Settlement provide Homeowners if approved by the Court?**

If approved by the Court, this Settlement will create a settlement fund in the amount of **\$90,000.00** to be used for the benefit of the owners of the Sharp-Plumbed Homes. This Settlement resolves claims related to 60 homes plumbed by Plumber. The Settlement funds will be combined with a share of settlement funds recovered from the pending \$90 million dollar settlement with the manufacturer of Kitec plumbing (discussed below) and any other funds recovered from other parties, for the benefit of the Sharp-Plumbed Homes.

### **4. Are additional funds anticipated from other parties?**

Class Counsel previously reached, and the Court approved, a ninety million dollar (\$90,000,000.00) settlement with the manufacturer of the Kitec plumbing system and related entities (“Ipex Settlement”). Though the Ipex Settlement was approved by the Court, several defendants in the underlying Class Action filed an appeal of the Court’s order approving the Ipex Settlement. The Ipex Settlement funds are therefore currently segregated in various protected accounts pending the resolution of the appeal. This Settlement, however, is **not contingent** upon the outcome of the Ipex Settlement appeal. Additionally, Class Counsel is continuing to pursue the builder responsible for constructing the Sharp-Plumbed Homes for additional funds to benefit the Sharp-Plumbed Homes. Of course, the success of neither the additional claims against the builder nor the Ipex Settlement appeal is guaranteed, but Class Counsel intends to pursue both vigorously on behalf of the Class.

### **5. How will this Settlement be funded?**

The specific funding for this Settlement is as follows: \$90,000.00 from Class Counsel’s previously Court-awarded attorney’s fees.

### **6. Why is this a class action and what is a class?**

In a class action lawsuit, one or more people called “Representative Plaintiffs” sue on behalf of other people who have similar claims. All of these people together are known as the “Class” or “Class Members.” One Court decides all the issues in the lawsuit for all Class Members, except for those that exclude themselves from the Class. The judge hearing this class action lawsuit is the Honorable Timothy C. Williams. The presently-named Representative Plaintiffs are Tracie L. Quinterro, Eric W. Quinterro, Stephen Inferrera, Sheila Inferrera, Anna Navarro, Susan Sheldon, Robert Dostler, Beverly Miller, Emma Norton, David Ober, Jennifer Ober, David Pursiano, Laurel Brady, Pamela T. Smith, Kari Brady, Paul Brady, Roderick Saup, Rhonda Saup, Laura Ishum, Nancy Drapeau, Yolanda Flores, Rebekah Ogle, Rick Guzman, Paul Messingschlager, Barry Sweet, Evan Levy, Mary Levy, Leslie Gunnels, John Berbirian, Doug Ellington, Melanie Littlefield, Harvey Smith, Mike House, Vincent Marino, Larry Maier, Dan Riordan, and Linda McIntyre.

### **7. Why have the Class and Plumber decided to settle?**

The Court has not decided in favor of the Class or Plumber. Plumber vigorously denies any wrongdoing, violation of law, or breach of duty asserted by Plaintiffs in the class action. Plumber contends that its plumbing systems were properly constructed and installed in accordance with appropriate care, relevant standards, and “good practice,” that Class claims have no basis in law or fact, that Plumber has meritorious affirmative defenses to all claims, and that the class action should be dismissed. All sides, however, have agreed to a settlement in order to avoid the risks and costs associated with trial.

### **8. How do I know if I am part of this Settlement?**

You are part of this Settlement if: **a) You are the owner of the Sharp-Plumbed Homes in the Clearwater Canyon development;** **b) That home contains, or at any time contained, a Kitec or PlumbBetter plumbing system installed by Plumber;** and **c) You**

**did not previously opt out of this class action.** If you own a home included in this Settlement but previously opted out of this class action, you may still take part in this Settlement by timely submitting a Request to Rejoin the Class.

**9. What happens if this Settlement is approved by the Court?**

If this Settlement is approved by the Court, then you will be notified of the Court's final approval and advised of the steps that you need to take in order to participate in the benefits provided by the Settlement. The notice of the Court's final approval will explain what steps, if any, you need to take and will include any necessary claims forms that you will be required to return to the Claims Administrator to take part in this Settlement.

**10. What happens if this Settlement is not approved by the Court?**

If the Settlement is not approved by the Court at the Fairness Hearing, the Settlement will terminate and all of the parties will be restored to the position they were in before the Settlement was reached.

**11. What if I already replumbed my home or have already suffered damages from a Kitec fitting leak?**

If you already replumbed your home or have suffered damage from a Kitec fitting failure, you **may** be entitled to monetary reimbursement, subject to approval by, and in an amount to be determined by, the Claims Administrator. In order to request reimbursement for a prior replumb or damages, you must submit a Claim Form and supporting documentation to the Claims Administrator, who will then review the merits of your claim and provide a response to you. **DO NOT HIRE OR CONTACT AN INDEPENDENT PLUMBER TO PERFORM A REPLUMB. PLEASE READ THIS NOTICE IN ITS ENTIRETY FOR INFORMATION REGARDING YOUR RIGHTS TO THE BENEFITS OF THE SETTLEMENT.**

**YOUR RIGHTS – IF YOU PREVIOUSLY OPTED OUT OF THE CLASS ACTION**

**12. If I previously excluded myself as a member from the Class Action, can I still accept the benefits of this Settlement?**

Yes, but you must first timely withdraw your prior "opt-out" and submit a Request to Rejoin the Settlement. A Request to Rejoin may be obtained from Class Counsel at the locations identified in Paragraph 17 below. **If you previously opted out of this class action and do not submit and postmark the Request to Rejoin on or before NOVEMBER 8, 2010, you will not be eligible to receive the benefits provided in this Settlement.**

**YOUR RIGHTS – IF YOU DO NOT WISH TO TAKE PART IN THIS SETTLEMENT**

**13. What if I do not want to be part of this Settlement?**

If you do not wish to receive the benefits provided by this Settlement, then you may exclude yourself from the Settlement by not returning the Claim Form that will be provided to you upon final approval of this Settlement. **If you exclude yourself, then you will not receive the benefits and you will give up your right to sue Plumber on these claims later.**

**14. If I exclude myself, may I pursue a claim against Plumber independently?**

**No.** If you exclude yourself from this Settlement, you will not be entitled to pursue an independent claim against Plumber concerning Kitec Fittings.

**YOUR RIGHTS – OBJECTING TO THE SETTLEMENT**

**15. How do I tell the Court if I do not like the Settlement?**

If you own a Sharp-Plumbed Home, then you can tell the Court that you do not like the Settlement or some part of it. This is called objecting to the Settlement. To object, you or your lawyer may send a letter to the Court or appear at the Fairness Hearing. **The Court, however, may approve the Settlement despite objections, and all members of the Class will be bound by this Settlement.**

To send a letter to the Court or appear at the Fairness Hearing, you or your lawyer must provide all of the following:

- Entitle the letter: NOTICE OF OBJECTION OR APPEARANCE- **The Sharp Settlement**
- The name and title of this lawsuit: IN RE KITEC FITTING LITIGATION, A493302.
- State that the letter is in regard to the Sharp Settlement.
- Your address to confirm that you are the owner of a Sharp-Plumbed Home.
- A statement of each objection you have and a summary of the basis for these objections.
- A description of any law or case supporting your objections.
- A statement of whether you or your attorney will ask to appear at the Fairness Hearing to speak on your objections, and if so, how long you will require to present your objections.
- Copies of any documents that you or your attorney wish to present at the Fairness Hearing.
- **Your objection letter must be mailed and postmarked before NOVEMBER 8, 2010, with copies sent to the following address:**

Kemp, Jones & Coulthard, LLP  
Wells Fargo Tower, 17<sup>th</sup> Floor  
3800 Howard Hughes Parkway  
Las Vegas, NV 89169  
*Attention: Sharp Settlement Objections*

## **IF YOU DO NOTHING**

### **16. What happens if I do nothing?**

If you do nothing, **you will be bound by this Settlement** and will be eligible to receive the benefits of the Settlement if you are the owner of a Sharp-Plumbed Home. If this Settlement is finally approved by the Court, you will receive further instructions for requesting and receiving the benefits of this Settlement. If you do not return your Claim Form, you will **not** receive the benefits of this Settlement and you will **give up your right to sue** Plumber on these claims later. Therefore, if the Court approves this Settlement and you choose not to accept it, or you do not timely take the steps required to claim the benefits of the Settlement, you will have **no** further rights against Plumber.

## **THE LAWYERS WHO REPRESENT THE CLASS AND WHO NEGOTIATED THIS SETTLEMENT**

### **17. Do I have a lawyer in this lawsuit?**

When the Court first created a class action on October 16, 2006, it appointed the following attorneys to represent all members of the Class, which includes the owners of Sharp-Plumbed Homes. Together, these attorneys are called Class Counsel. ***You will not be individually charged for these lawyers.*** The names and addresses of Class Counsel are as follows:

J. Randall Jones & William L. Coulthard  
Kemp, Jones & Coulthard, LLP  
Wells Fargo Tower, 17<sup>th</sup> Floor  
3800 Howard Hughes Parkway  
Las Vegas, NV 89169

Francis Lynch, Charles Hopper, & Sergio Salzano  
Lynch, Hopper & Salzano, LLP  
231 South Third Street, #130  
Las Vegas, NV 89101

### **18. How will these attorneys be paid?**

Class Counsel has agreed not to request any attorney's fees for their work in acquiring this Settlement. Class Counsel's agreement to forego fees does not include any fees previously awarded to Class Counsel by way of the Ipex Settlement or in conjunction with any other settlement or partial settlement in this action.

## **The Court's Fairness Hearing**

### **19. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Fairness Hearing on **NOVEMBER 17, 2010, at 1:15 p.m.** At this hearing, the Court will consider whether the Settlement is fair and adequate. If there are objections, the Court will consider them at that time. The Court will also listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. During this hearing, the Court will also consider any objection to the amount of attorney's fees and expenses.

The Fairness Hearing will be held at:

Regional Justice Center  
**Courtroom 12D** (12<sup>th</sup> Floor/Department 16)  
200 Lewis Avenue  
Las Vegas, Nevada 89101

### **20. Do I have to come to the Fairness Hearing?**

No, you are **not** required to come to the Fairness Hearing if you have no objection to the Settlement. But you are welcome to come if you wish to. If you send an objection, you are not required to attend the hearing to talk about it. As long as you mailed your written objection to the Court on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required.

### **21. May I speak at the hearing?**

You will be allowed to speak at the hearing by sending a Notice of Appearance (described above within Question 16) to the Court that states you wish to appear at the Fairness Hearing and speak.

## **Getting More Information**

### **22. Where can I receive more information about this Settlement?**

This Notice summarizes the Settlement below. More details are in the Settlement Agreement itself or motion for approval, which you may obtain by contacting Class Counsel at the addresses listed above. You can also review and copy legal documents in this class action during regular office hours at the office of the District Court Clerk's Office, Clark County Regional Justice Center, 3<sup>rd</sup> Floor, 200 Lewis Avenue, Las Vegas, NV, 89101.

## SUMMARY OF SETTLEMENT AGREEMENT

**Your Review of the Settlement Agreement.** The Settlement Agreement is described in general terms below. **This is only a summary of the Settlement Agreement; it has no legal impact upon the terms as provided in the parties' actual agreement, which control.** You may also review, in consultation with such advisors, such as your attorney, as you deem appropriate, the settlement agreement and accompanying documents for a full explanation of the settlement in order to familiarize yourself with the precise terms of the settlement and to determine the effect on you of the settlement. You may obtain a copy of the settlement agreement or other documents memorializing the agreement by making a written request to class counsel at the addresses provided in question 17 above.

**1. Creation of Qualified Settlement Fund.** A fund or funds will be established in accordance with Section 468B of the Internal Revenue Code of 1986, as amended, and the Regulations thereunder, as a vehicle for holding the Settlement funds paid in settlement of the claims of the owners of the Sharp-Plumbed Homes (the "Qualified Settlement Fund"). Subject to the terms of the Settlement Agreement, a total sum of **\$90,000.00** will be paid to the Qualified Settlement Fund for the benefit of the owners of the Sharp-Plumbed Homes.

**2. Use of the Qualified Settlement Fund.** The Settlement sums will be combined with any other money recovered for the owners of the Sharp-Plumbed Homes via settlement or otherwise. The Settlement Fund will be administered by a Court-appointed Claims Administrator, Total Claims Solutions.

**A. Class Members Who Previously Accepted Funds from Plumber and Executed a Release.** If the owner of a Settlement Subclass Home previously received funds from Plumber to pay for a Kitec replumb and executed a release of all claims, then that Subclass Member will not be entitled to a pro-rata distribution from this Settlement, but **may** be eligible for reimbursement for additional out-of-pocket expenses because of a prior replumb or damages from a Kitec fitting leak that exceed the amount previously received. To request reimbursement for reasonable costs above the amount previously accepted, Subclass Member must follow the procedures that will be outlined in the Final Notice of Approval.

**3. Dismissal of Claims Against Plumber.** Within five (5) days after notice of entry of a Final Order by the Court approving the Settlement as fair, adequate, reasonable, and in the best interests of the Class in accordance with Rule 23(e) of the Nevada Rules of Civil Procedure, assuming that there have been no timely appeals of the Final Order, all of the claims against Plumber relating to the Settlement Subclass Homes will be dismissed with prejudice.

**4. Releases.** As a result of the Settlement and following Final Approval, the Settlement Subclass Members will be deemed to have fully and finally released, acquitted, forever discharged, and absolved Plumber from any and all conceivable losses, damages or injuries arising from or in any way related to the Settlement Subclass Homes, including, without limitation, causes of action, claims, demands, damages, losses, costs or expenses, whether known or unknown, fixed or contingent, asserted or unasserted, foreseeable or unforeseeable, liquidated or unliquidated, unanticipated or unsuspected, which claims were asserted, or may be asserted in the future, that these class members have or may have against Plumber arising from or in any way related to the installation of the Kitec or PlumbBetter Plumbing Systems in the Settlement Subclass Homes, specifically excluding any claims for personal injury. The Settlement Subclass Members reserve any claims, rights, or remedies against: 1) any parties other than Plumber, except to the extent released by separate agreement and pursuant to a separate settlement with such party, and 2) any Approved Plumbing Contractor, material supplier, or any other third-party arising from or in any way related to the Work for the Replacement Plumbing. Additionally, the Settlement Subclass Members recognize that they may have some claim, demand, or cause of action against Plumber of which they are totally unaware and unsuspecting, which they are giving up by execution of the Settlement Agreement and that this Settlement Agreement will deprive them of each such claim, demand or cause of action and prevent them from asserting it against Plumber. They further acknowledge that the facts upon which the Settlement Agreement is made may turn out to be other than, or different from, the facts now believed by the Class to be true, and the Settlement Subclass Members therefore expressly assume the risk of the facts turning out to be different than they believed them to be and agree that the Settlement Agreement will in all respects be effective and not subject to termination or rescission because of any such mistaken belief.

**5. Potential Risk to the Settlement Subclass Members.** This Settlement is **NOT CONTINGENT** upon the outcome of the Ipex Settlement (\$90 Million settlement) appeal. Therefore, regardless of the outcome of the Ipex Settlement – and the related funding of the Ipex Settlement – this Settlement will remain in full force and effect. Therefore, the Settlement Subclass Members bear the risk of failing to recover any funds from the manufacturer of the Kitec Plumbing systems. In the event the \$90 Million from the Ipex Settlement is not released to Class Counsel for the benefit of and use by the Class, then Class Counsel, on behalf of the Class, will make efforts to secure a renewed settlement with, or obtain a judgment against, IPEX in the Class Action. In the event Class Counsel secures a settlement with, or obtains a judgment against, IPEX relating to the Settlement Subclass Homes, Class Counsel will fund the proportionate share (on a percentage basis of the recovery) of the funds recovered to the Qualified Settlement Fund for the benefit of the Settlement Subclass Members.