

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

|                                       |   |                            |
|---------------------------------------|---|----------------------------|
| <b>IN RE: CERTAINTEED CORPORATION</b> | : |                            |
| <b>ROOFING SHINGLES PRODUCTS</b>      | : | <b>MDL DOCKET NO. 1817</b> |
| <b>LIABILITY LITIGATION</b>           | : |                            |
|                                       |   |                            |
| <b>This Report relates to:</b>        | : |                            |
|                                       | : |                            |
| <b>ALL CASES</b>                      | : |                            |
|                                       |   |                            |

**CERTAINTEED CORPORATION’S THIRD REPORT TO THE COURT  
UNDER SECTION 4.33 OF THE AGREEMENT OF  
SETTLEMENT AND COMPROMISE AS AMENDED**

CertainTeed files this report pursuant to Section 4.33 of the Agreement of Settlement and Compromise as Amended (the “Settlement Agreement”) and pursuant to the Court’s Order entered November 3, 2011 (the “November 3, 2011 Order”).

Section 4.33 of the Settlement Agreement provides:

On the first anniversary of the Effective Date, and annually thereafter until one year after the expiration of the last of the warranty periods [pertaining to the shingles at issue in the case] CertainTeed shall file with the Court and serve on a designee of Class Counsel a report identifying the Claimants whose claims have been resolved in the prior 12 months, the amount distributed to each Eligible Claimant, and the basis for denying any claims.

Because claims data for the full twelve month period is not available by the anniversary of the Effective Date of the Settlement, this Court in its November 3, 2011 Order authorized the filing on November 1 of a report containing detailed claims data for the full twelve month period ending September 30 of the year of the report. Accordingly, CertainTeed now files this Third Report covering claims data for the period from October 2012 through September 2013.

Accompanying this report is a computer disc containing a list (Exhibit A), in electronic format, showing each claimant whose claim has been accepted and the amounts paid to the claimant, as well as a list (Exhibit B), also in electronic format, identifying each claimant whose claim has been denied and the reason for the denial. These exhibits, as well as Exhibit C discussed below, are being filed under seal in order to maintain the claimants' privacy in accordance with the November 3, 2011, Order.

Class members in this case are defined as follows:

All individuals and entities that own, as of [December 15, 2009], homes, residences, buildings, or other structures located in the United States or Canada whose roofs contain or contained roofing shingles made with a felt reinforcement base material that is saturated with asphalt, also known as organic roofing shingles, manufactured by CertainTeed after July 1, 1987; all individuals and entities who previously owned such a building and who, prior to [December 15, 2009] sold or transferred the building and at the time of the sale or transfer retained the right to make a claim for the shingles pursuant to a valid documented assignment; and all individuals and entities who owned such a building and who, between August 1, 2006, and [October 1, 2010], have settled . . . their warranty claims for such shingles.

During the period October 2012 through September 2013, CertainTeed reviewed, processed and paid a total of \$19,528,949 to approximately 15,311 Class Members. These payments included a total of \$389,190 in payments of up to \$50 per claim to defray the cost of removing and shipping shingle samples to CertainTeed pursuant to Section 4.6 of the Settlement Agreement (coded as RSS in column F of Exhibit A, Payment Summary tab). The remaining amount, \$19,139,759, was paid to class members in accordance with the character of their claims under the Settlement Agreement. Specifically, there are three categories of claims that qualify for payment: warranty claims, transferee claims, and releaser claims.

*Warranty claims* are claims of class members whose organic shingles are covered by a CertainTeed warranty and who did not resolve their warranty claims prior to the Effective Date of the Settlement Agreement. Under the Settlement Agreement, these claims are being paid at

the rate of \$74/square, with \$34/square prorated from date of installation, and \$40/square not prorated for first ten years following installation and, thereafter, prorated on the regular proration schedules for each warranty. Where the SureStart provision of the warranty is still applicable, however, the full SureStart amount is being paid. During the period October 2012 through September 2013, 15,247 warranty claims (coded as RCW in column E of Exhibit A, Payment Summary tab) were paid under these provisions of the Settlement Agreement. Payments for these claims totaled \$19,106,957, or an average of approximately \$1,253 per claim.

*Transferee claims* are claims of class members whose organic shingles are not covered by CertainTeed's warranties because they purchased, on or before December 15, 2009, a previously occupied building and the applicable warranty did not provide warranty coverage to transferees. Under the Settlement Agreement, transferee claims are being paid \$34/square prorated from the date of installation, provided that the claims were postmarked or otherwise received by CertainTeed within 12 months of the Effective Date of the Settlement Agreement. During the period October 2012 through September 2013, 62 transferee claims (coded as RCT in column D of Exhibit A, Payment Summary tab) were paid under these provisions of the Settlement Agreement. Payments on transferee claims totaled \$32,400, or an average of approximately \$523 per claim.

*Releaser claims* are claims of class members who resolved their warranty claims between August 1, 2006 and the Effective Date of the Settlement Agreement, and who executed a release in favor of CertainTeed. Releaser claims are paid in an amount equal to 20% of the difference between the amount received on the warranty claim and the amount that would have been received had the releaser made a warranty claim under the Settlement Agreement. During the period October 2012 through September 2013, two (2) releaser claims (coded as RCR in column

C of Exhibit A, Payment Summary tab) were compensated under these provisions of the Settlement Agreement. Payments for releaser claims totaled \$403, or an average of approximately \$201.50 per claim.

During the period October 2012 through September 2013, CertainTeed has denied a total of 2,745 claims. Almost 40% of these denied claims – a total of 1,093 – were filed by transferees who did not file their claims within one year of the Settlement Effective Date as required by Section 6.7 of the Settlement Agreement. An additional 13 were filed by releasers who did not file their claims within one year of the Settlement Effective Date as required by Section 6.8 of the Settlement Agreement.

Slightly more than 50% of the denied claims – a total of 1,389 – were denied because the claimant was not a class member: 875 of these claimants had fiberglass rather than organic shingles; 430 had shingles not manufactured by CertainTeed; the evidence submitted by 77 claimants was insufficient to prove whether the shingles that were the subject of the claim had been manufactured by CertainTeed or another company; 4 claimants had signed a release prior to August 1, 2006; and 3 had shingles that were installed prior to July 1, 1987.

As to the other denied claims, 30 claims were denied because the claims involved shingles with warranties that had previously expired. Additionally, 144 denied claims were claims of releasers who had already received consideration at least equal to the value of the payment they were eligible to receive under the Settlement Agreement, either in cash or in replacement shingles, and who, therefore, were not eligible to receive additional consideration under the Settlement Agreement. Moreover, 7 claims were denied, pursuant to Section 3.5 of the Settlement Agreement, because CertainTeed had paid the claims of previous owners of the same buildings for the same shingles on those buildings.

Only 69 claims were denied because the shingles did not exhibit “Damage” as defined in Section 3.6 of the Settlement Agreement. No claims were denied on the basis of the causation defenses set forth in Section 3.7 of the Settlement Agreement.

On June 19, 2012, this Court approved the parties’ selection of Heffler Claims Administration to serve as the Independent Claims Administrator pursuant to Section 4.19 of the Settlement Agreement and BrightClaim, Inc. as the Independent Inspector pursuant to Section 4.20 of the Settlement Agreement. As of September 30, 2012, CertainTeed had submitted 41 claims files to the Independent Claims Administrator for independent review of CertainTeed’s denial of all or part of the claims. In the subsequent year, CertainTeed has submitted 86 additional claims files to the Independent Claims Administrator for independent review of CertainTeed’s denial of all or part of the claims. One of those appeals was subsequently withdrawn because the claimant cashed the settlement check initially issued by CertainTeed, thereby releasing the claim. Accordingly, a total of 128 appeals were submitted to the Independent Claims Administrator for resolution.

As set forth in the report of Heffler Claims Administration, attached hereto as Exhibit C, as of September 30, 2013, the Independent Claims Administrator issued claims determinations with respect to 86 of these appeals, denying 62 of the appeals, accepting 4 appeals by determining that the claimant was entitled to greater compensation than that awarded by CertainTeed, and reversing CertainTeed’s denials of the claims in connection with 20 appeals. As a result of the Independent Claims Administrator’s claims determinations, CertainTeed has paid a total of \$35,879.25 in addition to its previous awards to a total of 24 claimants; these totals are included in the total payments set forth on page 2 of this Report. As of that same date,

Heffler Claims Administration was still in the process of reviewing the claims files for the remaining 46 appellants whose files had been submitted for appeal.

On October 28, 2013, this Court approved the parties' selection of the Honorable Louis C. Bechtle to serve as the Special Master pursuant to Section 5.1 of the Settlement Agreement. Since Judge Bechtle was not appointed until after September 30, 2013, no issues were presented to the Special Master during the year that is the subject of this Report.

Respectfully submitted,

s/Arlene Fickler

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Attorneys for Defendant CertainTeed  
Corporation

Dated: November 1, 2013

**CERTIFICATE OF SERVICE**

I, Arlene Fickler, hereby certify that I caused a true and correct copy of CertainTeed Corporation's Third Report to the Court Under Section 4.33 of the Agreement of Settlement and Compromise as Amended to be filed and served today, November 1, 2013, via the Court's ECF system, where it is available for viewing and downloading. Copies of the accompanying exhibits, which are being filed under seal, were served upon Class Counsel Charles Schaffer, Esq. by hand delivery and upon Class Counsel Robert Shelquist, Esq. by UPS on November 1, 2013 in connection with the electronic filing.

s/Arlene Fickler  
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**EXHIBITS A, B AND C**

TO CERTAINTIED CORPORATION'S THIRD  
REPORT TO THE COURT UNDER SECTION  
4.33 OF THE AGREEMENT OF SETTLEMENT  
AND COMPROMISE AS AMENDED

**FILED UNDER SEAL**