

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

REIFENENTSFORGUMSGESELL-
SCHAFT MBH,

Plaintiff,

v.

OXY TIRE, INC. et al.

Defendants.

CIVIL ACTION NO. 00-BE-2977-S

**STIPULATION FOR ENTRY OF JUDGMENT
AGAINST TERRY HABSHEY, PERSONALLY**

COME NOW plaintiff Reifenentsforgungsgesellschaft mbH ("REG mbH") and defendant Terry Habshey, by and through their undersigned counsel, and hereby stipulate to the following judgment:

1. Defendant Terry Habshey hereby confesses and agrees that judgment should be entered against him personally in the amount of \$300,000.00 in favor of plaintiff REG mbH in the above-styled case. This judgment shall be entered under Seal of the Court.

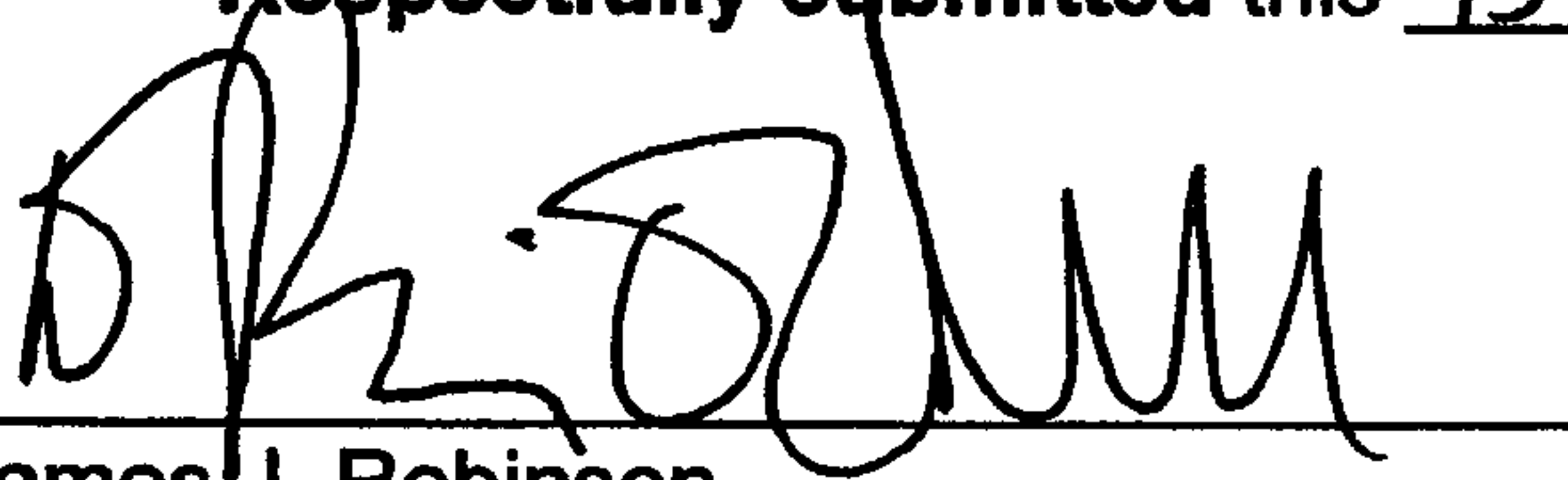
2. The judgment herein stipulated is governed by and shall be satisfied if paid in accordance with the terms of the Settlement Agreement entered into between the parties, a copy of which is attached hereto as Exhibit "A".

3. In the event of default certified to the Court by counsel of REG mbH, the judgment shall be taken from under Seal of the Court and REG mbH will have the right to immediately record the judgment and take all action available to judgment creditors to

collect the same, including without limitation, attachment, execution, garnishment, levy and sale, post-judgment discovery of assets and suit to set aside fraudulent transfers, if any.

4. All parties further stipulate and agree that the United States District Court for the Northern District of Alabama, Southern Division shall retain jurisdiction over the enforcement of and/or any dispute arising out of the Settlement Agreement entered into among the parties to the above-styled cause. See Exhibit A.

Respectfully submitted this 15th day of ^{April}~~March~~, 2002.

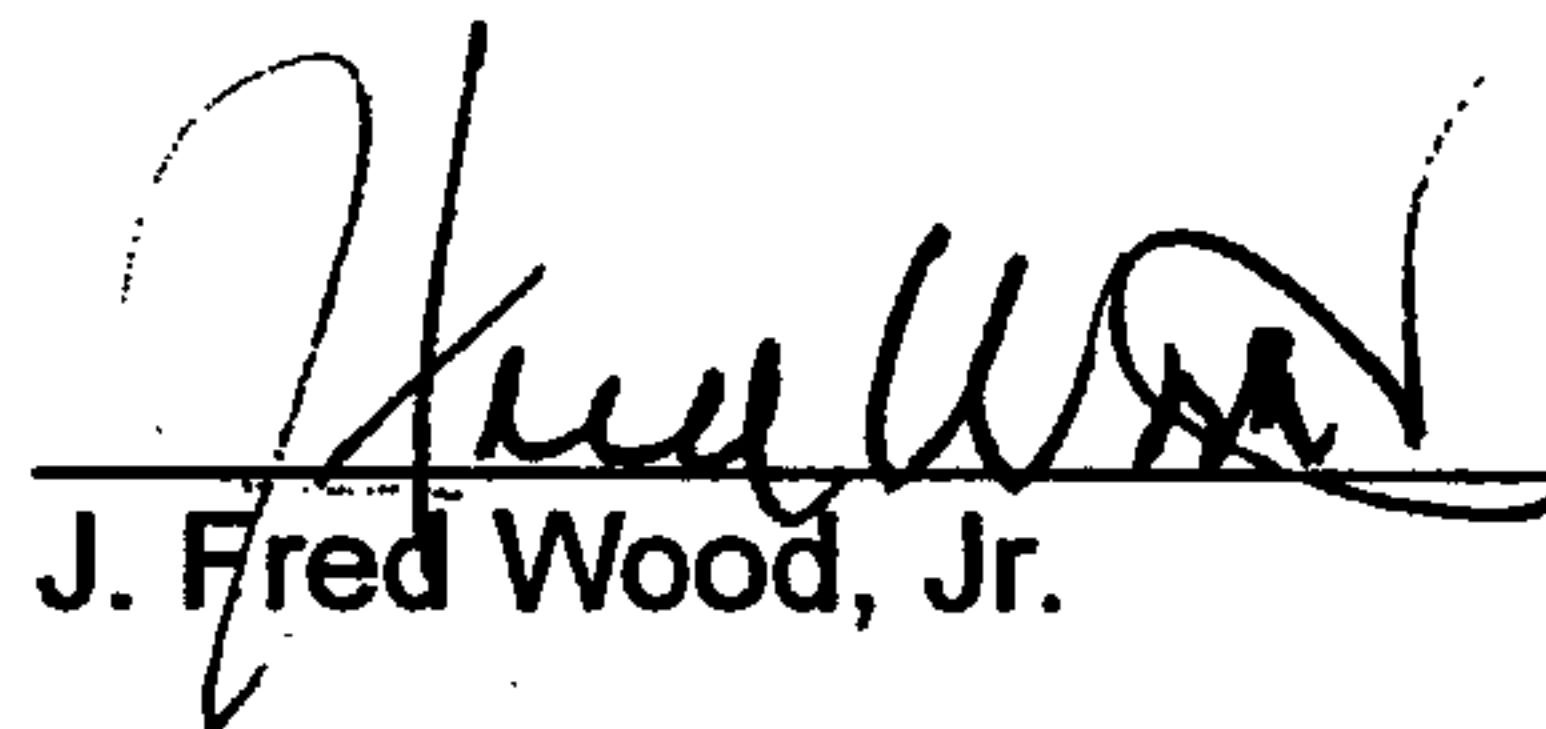


James J. Robinson
D. Christopher Carson
D. Brian O'Dell

Attorneys for Plaintiff REG mbH

OF COUNSEL:

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P. O. Box 830719
Birmingham, Alabama 35283-0719
(205) 251-3000



J. Fred Wood, Jr.

Attorney for Defendant Oxy Tire, Inc. and
Defendant Terry Habshey

OF COUNSEL:

Dominick, Fletcher, Yeilding, Wood
& Lloyd, P.A.
P.O. Box 1387
Birmingham, Alabama 35201

SETTLEMENT AGREEMENT

EXHIBIT "A"

1. Defendant Oxy Tire, Inc. hereby agrees and stipulates that judgment in the amount of \$1,450,826.38 be entered against it in favor of plaintiff Reifenentsforgungsgesellschaft mbH ("REG. mbH"), CV-00-BE-2977-S, pending in the United States District Court for the Northern District of Alabama, Southern Division. Defendant Terry Habshey hereby agrees and stipulates that judgment in the amount of \$300,000.00 be entered against him personally in favor of plaintiff REG mbH in CV-00-BE-2977-S. The judgment against Terry Habshey shall be entered under Seal of the Court.

2. The judgment against Oxy Tire, Inc. shall be assigned to defendant Terry Habshey, and the judgment against Terry Habshey shall be satisfied if payments totaling \$300,000.00 are timely paid by Terry Habshey as follows: \$25,000.00 installment due by June 7, 2002; \$75,000.00 installment due by December 31, 2002; \$50,000.00 installment due by July 1, 2003; \$50,000.00 installment due by December 31, 2003; \$50,000.00 installment due by May 1, 2004; and a \$50,000.00 installment due by October 1, 2004. The payments set forth in this paragraph may be prepaid in part or in full at anytime, but partial prepayments shall be applied to the last installment to become due and shall not otherwise delay the dates installments are due to be paid. All payments are to be made by Terry Habshey personally.

3. Plaintiff REG mbH hereby is granted the option to record, at any time, its judgment against defendant Oxy Tire, Inc. REG mbH is prohibited from recording the judgment against Terry Habshey and will forego enforcement of the judgment unless and

until Terry Habshey defaults as provided in this Agreement. Default under this Agreement means the failure by Terry Habshey to timely pay with the installment payments as set forth above in paragraph 2 or by Terry Habshey or Oxy Tire, Inc. failing to comply with any other provision of this Agreement.

4. Upon default by Terry Habshey or Oxy Tire, Inc., (1) the unpaid balance of the judgment shall become due and payable in full and the same shall accrue interest at the rate applicable to unpaid judgments under the laws of the State of Alabama; (2) REG mbH can enforce and collect the personal judgment against Terry Habshey through any means available to judgment creditors; (3) REG mbH can enforce and collect its judgment against Oxy Tire, Inc. through any means available to judgment creditors; and (4) REG mbH can commence "pierce the corporate veil/alter ego" type lawsuits against Terry Habshey for sums due to REG mbH by Oxy Tire, Inc. provided, however, that nothing herein shall prohibit Terry Habshey from defending such actions through any defenses available to him under applicable law other than those defenses specifically waived herein. Terry Habshey and Oxy Tire, Inc. also hereby waive any defense of *res judicata* arising from CV-00-BE-2977-S, pending in the United States District Court for the Northern District of Alabama, Southern Division in any subsequent "pierce the corporate veil/alter ego" suit. If any such "pierce the corporate veil/alter ego" suit is commenced within one (1) year from an uncured default by Terry Habshey or Oxy Tire, Inc., Terry Habshey and Oxy Tire, Inc. are prohibited from raising and hereby waive any defense of statute of limitations in such suit.

5. In the event of any default of this Agreement by Terry Habshey or Oxy Tire, Inc., counsel for plaintiff REG mbH must give written notice to J. Fred Wood, Jr. or the managing partner of Dominick, Fletcher, Yeilding, Wood & Lloyd, P.A., counsel for Terry Habshey and Oxy Tire, Inc., of such default. Once such notice of the default is provided, Terry Habshey shall have five (5) days to cure such default. If default is not cured within such five (5) days, REG mbH may take all steps described in paragraph 4 hereof, as well as all other provisions of this Agreement.

6. REG mbH hereby agrees that credit for amounts paid by Terry Habshey will be given to Terry Habshey and Oxy Tire, Inc. in any subsequent lawsuit commenced against Terry Habshey and/or Oxy Tire, Inc.

7. Oxy Tire, Inc. and Terry Habshey hereby expressly agree to indemnify, defend and hold REG mbH harmless from and against any and all claims asserted by any person or corporation for reimbursement of goods, services or assistance rendered to, for, or on behalf of Oxy Tire, Inc. and/or Terry Habshey. Oxy Tire, Inc. and Terry Habshey, as well as their affiliates, subsidiaries, parent companies, agents, officers, directors, employees, insurers, attorneys, heirs, successors and assigns and the agents, employees, insurers, officers, directors, attorneys, heirs, successors and assigns of its affiliates and parent companies are hereby prohibited and agree not to bring any subsequent lawsuit against REG mbH or its affiliates, subsidiaries, parent companies, agents, officers, directors, employees, insurers, attorneys, heirs, successors and assigns and the agents, employees, insurers, officers, directors, attorneys, heirs, successors and assigns of its

affiliates and parent companies regarding any contract between the parties and/or goods sold and/or delivered pursuant to such contract.

8. Oxy Tire, Inc. and Terry Habshey declare that no representation made by any employees, agents or attorneys of REG mbH, if any, concerning the validity or merit of the above-described lawsuit has induced them to make this Settlement Agreement and that they are acting upon their own judgment, belief and knowledge of the nature of all claims or potential claims against them in making this Settlement Agreement. Oxy Tire, Inc. and Terry Habshey warrant and declare that they are acting only after securing the advice and consultation of legal counsel of their choice.

9. Oxy Tire, Inc.'s representative and Terry Habshey acknowledge that they are over the age of eighteen (18) years of age and they have carefully read this Settlement Agreement and fully understand and know the terms thereof, and sign the same as their own free act and upon recommendation of legal counsel of their choice.

10. It is further understood and agreed that should any portion of this Settlement Agreement be held invalid by operation of law or otherwise, the remaining portion shall be given full force and effect and shall not in any way be affected thereby.

11. REG mbH, Oxy Tire, Inc. and Terry Habshey and their counsel in this lawsuit agree that unless and until an event of default occurs under this Agreement they will not at any time disclose, reveal, or divulge to any person, firm, corporation, news media or to any entity whatsoever (other than governmental taxing authorities and their personal accountant, or as may be required by order of a court of competent jurisdiction) the terms of this Settlement Agreement including, but not limited to, the amount of the payment

recited herein, the source or sources of settlement funds, and the basis on which said payments are computed.

12. Oxy Tire, Inc. and Terry Habshey further agree that the United States District Court for the Northern District of Alabama, Southern Division shall retain jurisdiction over the enforcement of and/or any dispute arising out of this Agreement. REG mbH shall recover from Oxy Tire, Inc. and/or Terry Habshey its reasonable attorney's fees incurred in prosecuting any such claim.

13. This Settlement Agreement contains the entire agreement between the parties, and the terms and conditions of this Settlement Agreement are contractual and not a mere recital. Interpretation of the terms and conditions of this Settlement Agreement are to be construed according to the laws of the State of Alabama. Oxy Tire, Inc. and Terry Habshey further state that they have carefully read the foregoing Settlement Agreement, know and understand the contents thereof, and sign their names as their own free act.

IN WITNESS WHEREOF, Oxy Tire, Inc. and Terry Habshey have hereunto set their hands this _____ day of March, 2002.

I HAVE READ, UNDERSTAND, AND
AGREE TO THE FOREGOING

Defendants:

Terry M. Habshey
Terry Habshey

Printed: TERRY M. HABSHEY

Terry M. Habshey
Oxy Fire, Inc. by its President, Terry
Habshey

Printed: TERRY M. HABSHEY

STATE OF Alabama
COUNTY OF Jefferson

I, J. Fred Wood Jr., a Notary Public in and for said county and
state, hereby certify that **Terry Habshey**, whose name is signed to the foregoing
Confidential Settlement Agreement, and who is known to me, acknowledged before me on
this day that, being informed of the contents of such instrument, he executed the same
voluntarily on the day the same bears date.

Given under my hand and seal, this 2nd day of April, 2002.

(SEAL)

[Signature]
Notary Public
My Commission Expires: 12/16/04

Plaintiff:

Carsten Lohrengel
REG Reifenentsorgungsgesellschaft mbH
Its: _____

File No 316/2002

STATE OF Germany)
COUNTY OF Lower Saxony)

I, Hans Georg Ahrens, a Notary Public in and
for said County in said State, hereby certify that Carsten Lohrengel,
whose name as manager of REG ~~of~~ Reifenentsorgungsgesellschaft mbH, a
private limited company, is signed to the Settlement Agreement, and who is known to
me, acknowledged before me on this day that, being informed of the contents of the
Settlement Agreement, he, as such manager and with full authority,
executed the same voluntarily for and as the act of said agreement.

Given under my hand and seal, this 24 day of May, 2002.

Hans Georg Ahrens
Notary Public
My Commission Expires: 28.02.2003

The notary asks the Appearer whether he or any member of his firm
had acted in the matter which is the subject of this instrument,
except in a notarial capacity. The Appearer replied in the negative.

[Signature]
Notary Public