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 2 A Professional Corporation
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 6 San Francisco, CA 94115
 7 Telephone: (415) 561-8440
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9 Attorneys for Plaintiff
 10 HOMETEAM PEST DEFENSE, INC.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E-FILING

12 HOMETEAM PEST DEFENSE, INC.,)
 13)
 14 Plaintiff,)
 15)
 16 vs.)
 17)
 18 DAVID WOODMAN, ROBERTO BARON,)
 19 TIM KATRONES, MICHAEL)
 20 FAULKENBERRY, MICHAEL ISHAM,)
 21 GLEN MCCAULEY, SEAN MCCAULEY,)
 22 DELTA PEST CONTROL, and DOES 1)
 23 through 50, inclusive,)
 24)
 25 Defendants.)
 26)
 27)
 28)

CASE NO. CV 09-1158 JSW
JOINT STIPULATION AND
PERMANENT INJUNCTION
 [FRCP Rule 65 & Civil Local Rule 65-1]

1 Plaintiff HOMETEAM PEST DEFENSE, INC. (“HomeTeam”) and Defendants GLEN
2 MCCAULEY, SEAN MCCAULEY, DELTA PEST CONTROL hereby stipulate that Glen
3 McCauley, Sean McCauley and Delta Pest Control are permanently enjoined from utilizing the
4 Garden Plus Trademark outside of the three Permitted California Counties of Marin, Napa and
5 Sonoma, and from competing with HomeTeam Pest Defense as Garden Plus outside of those
6 Counties as provided in the January, 2008 Asset Purchase Agreement, Trademark Sublicense
7 Agreement and Purchaser Non-Competition Agreement entered into between Sean McCauley
8 and HomeTeam. To that end, Glen McCauley, Sean McCauley and Delta Pest Control will
9 perform the following acts:

- 10 1. Except as provided below, cease using the Garden Plus mark going forward in all
11 California Counties, except Marin, Napa and Sonoma;
- 12 2. Remove all Garden Plus signs from 2695 East Leland Road, Pittsburg, California
13 94565 on or before June 15, 2009;
- 14 3. Remove the Garden Plus mark from the vans, trucks and/or automobiles used to
15 perform work in California Counties, except Marin, Napa and Sonoma Counties
16 on or before June 15, 2009;
- 17 4. Remove the Garden Plus mark from any uniforms worn by the employees of Delta
18 Pest Control, Sean McCauley, Glen McCauley and/or McCauley Brothers Pest
19 Management working in all California Counties, except Marin, Napa and Sonoma
20 Counties on or before June 15, 2009;
- 21 5. On or before June 15, 2009 amend all licences and/or registrations, if any, issued
22 to Glen McCauley, Sean McCauley and/or Delta Pest Control that were issued
23 with the Garden Plus name related to any locations outside of the Marin, Napa and
24 Sonoma Counties;
- 25 6. Not use the Garden Plus mark on any invoices or other paperwork in California
26 Counties, excluding Marin, Napa and Sonoma Counties after June 15, 2009;
- 27 7. Not use the Garden Plus mark on any new advertising in California Counties,
28 excluding Marin, Napa and Sonoma Counties;

- 1 8. Not list any address outside of Marin, Napa and Sonoma Counties on the
2 www.gardenpluspest.com website;
- 3 9. Not directly or indirectly solicit or otherwise induce any of the employees of
4 HomeTeam to leave the employment of HomeTeam without prior written
5 approval from HomeTeam. If approached by employees of HomeTeam, Glen
6 McCauley, Sean McCauley, Delta Pest Control and/or McCauley Brothers Pest
7 Management will inform them that “they cannot directly or indirectly solicit or
8 otherwise induce any of the employees of HomeTeam to leave the employment of
9 HomeTeam without prior written approval from HomeTeam;”
- 10 10. Sean McCauley may not directly or indirectly knowingly or recklessly solicit
11 business that competes with HomeTeam in Arizona, Nevada or California,
12 excluding Marin, Napa and Sonoma Counties;
- 13 11. Not knowingly or recklessly permit former HomeTeam employees who work for
14 Glen McCauley, Sean McCauley, Delta Pest Control and/or McCauley Brothers
15 Pest Management to use HomeTeam’s trade secrets or confidential information.
16 Further, Glen McCauley, Sean McCauley, Delta Pest Control and McCauley
17 Brothers Pest Management shall instruct all former HomeTeam employees who
18 work for them not to use HomeTeam’s trade secrets or confidential information,
19 including but not limited to, HomeTeam’s customer lists;
- 20 12. Not knowingly or recklessly permit former HomeTeam employees who work for
21 Glen McCauley, Sean McCauley, Delta Pest Control and/or McCauley Brothers
22 Pest Management to solicit HomeTeam’s customers, excluding Marin, Napa and
23 Sonoma counties. Further, Glen McCauley, Sean McCauley, Delta Pest Control
24 and McCauley Brothers Pest Management shall instruct former HomeTeam
25 employees who work for them not to solicit HomeTeam’s customers, excluding
26 Marin, Napa and Sonoma counties;
- 27 13. When Glen McCauley, Sean McCauley and/or Delta Pest Control change their
28 name or names of their pest control businesses to McCauley Brothers Pest

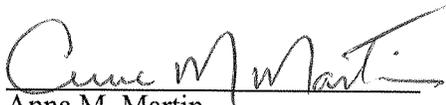
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Management or any other name, they will only inform their customers of the name change by providing the costumers with a copy of one of the letters that are attached hereto as Exhibit A.

SO STIPULATED.

DATED: May 4, 2009

RIMAC MARTIN, P.C.

By: 
Anna M. Martin
Attorneys for Plaintiff HomeTeam

DATED: _____

By: _____
GLEN MCCAULEY

DATED: _____

By: _____
SEAN MCCAULEY

DELTA PEST CONTROL

DATED: _____

By: _____
Authorized Representative

[Printed Name and Title]

SO ORDERED:

DATED: _____

Jeffrey S. White
United States District Court Judge

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SO STIPULATED.

DATED: May 4, 2009

RIMAC MARTIN, P.C.

By:

Anna M. Martin
Attorneys for Plaintiff HomeTeam

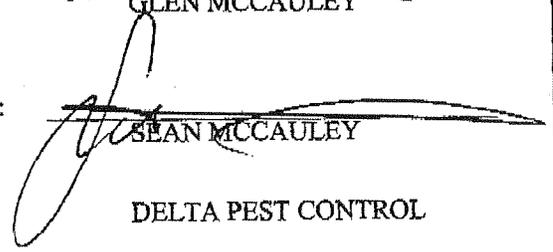
DATED: 5/5/09

By:


GLEN MCCAULEY

DATED: 5/5/09

By:


SEAN MCCAULEY
DELTA PEST CONTROL

DATED: 5/5/09

By:


Authorized Representative
Glen McCauley President
[Printed Name and Title]

This stipulation appears to render Plaintiff's pending ~~SO ORDERED~~ motion for a preliminary injunction moot and may also resolve Plaintiff's entire action. If the motion is now moot, Plaintiff shall file a notice to withdraw it's motion for preliminary injunction, and if Plaintiff is not seeking any relief from any other named defendants, Plaintiff shall file a notice of dismissal by no later than May 18, 2009.

DATED: May 12, 2009

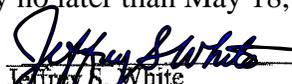

Jeffrey S. White
United States District Court Judge

EXHIBIT A

April 22, 2009

Dear Valued Customer,

In an effort to align all our Northern California operations, we will change our name, effective immediately, to McCauley Brothers Pest Management.

Please be assured you will continue to be provided the service and support you have come to expect from us by the same technician that currently services your home. The only change will be the name on the service ticket.

We look forward to continuing to provide you with superior pest service. Should you have any questions please feel free to contact us.

Sincerely,

Glen McCauley
Sean McCauley

McCauley Brothers Pest Management

April 22, 2009

Dear Garden Plus Customer,

Over the last year you have seen us change our name twice. At this junction and in an effort to align our name with our other operations we will be known as McCauley Brothers Pest Management.

Please be assured you will continue to be provided the service and support you have come to expect from us by the same technician that currently services your home. The only change will be the name on the service ticket.

We look forward to continuing to provide you with superior pest service. Should you have any questions please feel free to contact us.

Sincerely,

Sean McCauley

McCauley Brothers Pest Management
(formerly Garden Plus Pest Control)