

1 Daniel Feinberg – CA Bar No. 135983
 Todd F. Jackson – CA Bar No. 202598
 2 Margaret E. Hasselman – CA Bar No. 228529
 Nina Wasow – CA Bar No. 202047
 3 Kirsten G. Scott – CA Bar No. 253464
 LEWIS, FEINBERG, LEE,
 4 RENAHER & JACKSON, P.C.
 1330 Broadway, Suite 1800
 5 Oakland, California 94612
 Telephone: (510) 839-6824
 6 Facsimile: (510) 839-7839
 Email: dfeinberg@lewisfeinberg.com
 7 Email: tjackson@lewisfeinberg.com
 Email: mhasselman@lewisfeinberg.com
 8 Email: nwasow@lewisfeinberg.com
 Email: kscott@lewisfeinberg.com

9 *Attorneys for Plaintiffs and the Class*
 10 (Additional counsel on signature page)

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO AND OAKLAND DIVISION

14
 15 THOMAS FERNANDEZ, LORA SMITH, and)
 TOSHA THOMAS, individually and on behalf)
 16 of a class of all other persons similarly situated,)

17 Plaintiffs,)

18 vs.)

19 K-M INDUSTRIES HOLDING CO., INC.;)
 K-M INDUSTRIES HOLDING CO., INC.)
 20 ESOP PLAN COMMITTEE; WILLIAM E.)
 AND DESIREE B. MOORE REVOCABLE)
 21 TRUST; TRUSTEES OF THE WILLIAM E.)
 AND DESIREE B. MOORE REVOCABLE)
 22 TRUST; CIG ESOP PLAN COMMITTEE;)
 NORTH STAR TRUST COMPANY;)
 DESIREE B. MOORE REVOCABLE TRUST;)
 23 WILLIAM E. MOORE MARITAL TRUST;)
 WILLIAM E. MOORE GENERATION-)
 24 SKIPPING TRUST; and DESIREE MOORE,)
 BOTH IN HER INDIVIDUAL CAPACITY)
 25 AND AS TRUSTEE OF THE WILLIAM E.)
 AND DESIREE B. MOORE REVOCABLE)
 26 TRUST’S SUCCESSOR TRUSTS NAMED)
 ABOVE,)

27 Defendants.)
 28

Case No. C-06-07339 CW

**ORDER GRANTING PLAINTIFFS’
 MOTION FOR FINAL APPROVAL OF
 PARTIAL CLASS ACTION
 SETTLEMENT**

1 This matter comes before the Court on the Class Plaintiffs' Motion for Final Approval of
2 Partial Class Action Settlement to grant final approval of the Amended & Restated Stipulation
3 and Agreement of Settlement ("Settlement" or "Settlement Agreement") between Class Plaintiffs,
4 on behalf of themselves and the Class, and Defendants K-M Industries Holding Co., Inc., K-M
5 Industries Holding Co., Inc. ESOP Plan Committee, CIG ESOP Plan Committee ("K-M
6 Defendants"), William E. and Desiree B. Moore Revocable Trust, Trustees of the William E. and
7 Desiree B. Moore Revocable Trust, Desiree B. Moore Revocable Trust, William E. Moore
8 Marital Trust, William E. Moore Generation-Skipping Trust, and Desiree B. Moore ("Moore
9 Trust Defendants") (the KMH Defendants and Moore Trust Defendants are collectively referred
10 to as the "Settling Defendants"). The proposed settlement in this case was preliminarily approved
11 by this Court on January 23, 2009 ("Preliminary Approval Order") [Docket No. 271]. Pursuant to
12 the Court's Preliminary Approval Order and the Notice provided to the Class, the Court
13 conducted a fairness hearing under Fed. R. Civ. P. 23(e) on May 7, 2009. The Court has
14 reviewed the materials submitted by the parties, and has heard arguments presented at such
15 hearing. For the reasons cited on the record as well as those stated hereafter, the Court finds and
16 orders as follows:

17 1. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
18 1331 and 29 U.S.C. § 1132(f).

19 2. The notice given to the Class fully and accurately informed Class Members of all
20 material elements of the proposed settlement, constituted the best notice practicable under the
21 circumstances, constituted valid, due and sufficient notice to all Class Members, and complied
22 fully with Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution.

23 3. The Settlement Agreement is fair, reasonable and adequate in all respects to the
24 Class Members pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Court finds that
25 the uncertainty and delay of further litigation strongly support the reasonableness and adequacy of
26 the \$40 million settlement.

27 4. No class member has objected to any aspect of the proposed settlement. The
28 reaction of the Class to the proposed settlement strongly supports the conclusion that the

1 proposed settlement is fair, reasonable, and adequate. Accordingly, the Court finds that the
2 settlement is, in all respects, fair, reasonable and adequate, and hereby grants final approval of the
3 settlement.

4 5. The Court hereby dismisses with prejudice and equitably bars all claims arising
5 out of or relating to the facts, transactions or allegations of this Action, including but not limited
6 to claims for equitable contribution and/or indemnity, that are or could be asserted, now or in the
7 future, against any Settling Defendants by any other person or entity purporting to sue on behalf
8 of or asserting the interests of plan participants and beneficiaries, the Plan, or any plan fiduciary,
9 including but not limited to North Star Trust Company (“North Star”) and its successors and
10 assigns. However, this Bar Order does not dismiss or bar claims for alleged contractual
11 indemnity and payment of defense costs by North Star.

12 6. North Star is entitled to a judgment reduction of \$40 million in the event of any
13 finding of liability against it.

14 7. The Court finds and determines that the Settling Defendants' notice of Settlement
15 to State Attorneys General and United States Attorneys General, pursuant to 28 U.S.C. section
16 1715(b), was timely, adequate, and compliant with the statutory requirements of the Class Action
17 Fairness Act.

18 8. The Court reserves exclusive and continuing jurisdiction over the class action, the
19 Named Plaintiffs, the Class, and the Defendants for the purposes of supervising the
20 implementation, enforcement, construction, and interpretation of the Settlement Agreement, the
21 Preliminary Approval Order, the distribution of Settlement Payments, the Final Judgment, and
22 this Order.

23 **IT IS SO ORDERED.**

24
25 5/8/09

26 Dated: _____



27 _____
The Honorable Claudia Wilken
28 United States District Judge