

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 John Moore and Design Design, Inc.

This Settlement Agreement is entered into by and between John Moore (“Moore”) and Design Design, Inc. (“Design”) with Moore and Design collectively referred to as the “Parties.” Moore is an individual residing in the State of California who asserts that he seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Design employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Moore alleges that Design has manufactured, distributed, sold and/or offered for sale in California gift bags with handles containing the phthalate chemical di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 health hazard warnings. DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as follows: gift bags with handles containing DEHP including, but not limited to, *Gift Bag, Happy Birthday, #225-03440 (#7 32296 15387 9)* manufactured, distributed, sold and/or offered for sale in California by Design, hereinafter referred to as the “Products.”

1.4 Notice of Violation

On or about October 11, 2011, Moore served Design and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided the recipients with notice of alleged violations of Proposition 65 by Design for failing to warn its customers and consumers in California that the Products exposed

users to DEHP. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

Design denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Design of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Design of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Design. However, this section shall not diminish or otherwise affect Design's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean August 5, 2012.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

As of the Effective Date, Design shall only manufacture, distribute, sell and/or offer for sale in California Products that are "DEHP Free." For purposes of this Settlement Agreement, "DEHP Free" Products shall mean Products containing less than or equal to 1,000 parts per million (0.1%) of DEHP when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C, or any method utilized by state or federal agencies for the purposes of determining the DEHP content in a solid substance.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE §25249.7(b)

For its commitment to reformulate the Products pursuant to Section 2 above, Moore shall provide Design with a penalty credit of \$3,000. Thereafter, the remaining penalty amount of \$2,000 will be paid by Design and apportioned according to Health & Safety Code §§ 25249.12 (c)(1) & (d), with 75% of the penalty amount remitted to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty paid to Moore.

Design shall issue two checks for the penalty payment: (a) one check payable to "The Chanler Group in Trust for OEHHA" in the amount of \$1,500 and (b) one to "The Chanler Group in Trust for John Moore" in the amount of \$500. Two 1099 forms shall be provided for the above payments to: (a) Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486); and (b) Moore, whose address and tax identification number shall be furnished, upon request, at least five (5) calendar days before payment is due. Payment shall be delivered on or before the August 31, 2012 at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Moore and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Design shall reimburse Moore's counsel for a portion of the fees and costs incurred as a result of investigating, bringing this matter to Design's attention, and negotiating a settlement in the public interest. Design shall pay Moore's counsel \$10,000 for all attorneys' fees, expert and investigation fees, and related costs. The payment shall

be issued in a third check made payable to “The Chanler Group” and shall be delivered to the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

Design shall issue a separate 1099 for attorneys’ fees and costs paid to The Chanler Group (EIN: 94-3171522).

5. CLAIMS COVERED AND RELEASED

5.1 Moore’s Release of Design

This Settlement Agreement is a full, final and binding resolution between Moore and Design, of any violation of Proposition 65 that was or could have been asserted by Moore on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Design, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Design directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (“Releasees”), based on their failure to warn about alleged exposures to DEHP contained in the Products that were manufactured, distributed, sold and/or offered for sale by Design in California before the Effective Date.

In further consideration of the promises and agreements herein contained, Moore on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses -- including, but not limited to, investigation fees, expert fees, and attorneys’ fees, but exclusive of fees and costs on appeal -- limited to and arising under Proposition 65 with respect to

those that could have been taken or made) by Moore and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

Design also provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Design of any nature, character or kind, known or unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to DEHP pursuant to Proposition 65 in the Products manufactured, distributed, sold and/or offered for sale by Defendant Releases and Downstream Releasees. Design acknowledges that it is familiar with Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Design expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by, the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that Design may lawfully waive such rights or benefits pertaining to alleged exposures to DEHP from the Products sold by Design in California prior the Effective Date.

6. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within one year of the execution of this Settlement Agreement Design may ask Moore, in writing, to file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek the court's approval of the consent judgment pursuant to Health and Safety Code section 25249.7, or as may be otherwise allowed by law. If so requested, Moore agrees to reasonably cooperate with Design and

to use his best efforts, and that of his counsel, to support the entry of a consent judgment by a superior court in California. Pursuant to Code of Civil Procedure sections 1021 and 1021.5, Design will reimburse Moore and his counsel for their reasonable fees and costs incurred in filing the complaint, converting the Settlement Agreement into a proposed consent judgment and seeking judicial approval of the consent judgment, in an amount not to exceed \$13,000, exclusive of fees and cost that may be incurred on appeal. Design will remit payment to The Chanler Group, at the address set forth in Section 8 below. Such additional fees shall be paid by Design within ten days after its receipt of monthly invoices from Moore for work performed under this paragraph.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Design may provide written notice to Moore of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (a) first-class, registered or certified mail, return receipt requested; or (b) overnight courier on any party by the other party at the following addresses:

To Design:

Donald Kallil, President
Design Design, Inc.
19 La Grave Avenue SE
Grand Rapids, MI 49503

With copy to:

Peg Carew Toledo
Mennemeier, Glassman & Stroud LLP
980 9th Street, Suite 1700
Sacramento, CA 95814

To Moore:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (“pdf”) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. A facsimile or pdf signature shall be as valid as the original.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Moore and his attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

11. MODIFICATION

This Settlement Agreement may be modified only by written agreement of the Parties.

12. AUTHORIZATION

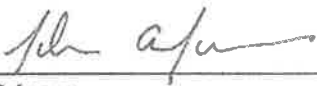
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: August 14, 2012

Date: _____

By: 
John Moore

By: _____
Donald Kallil, President
Design Design, Inc.

12. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

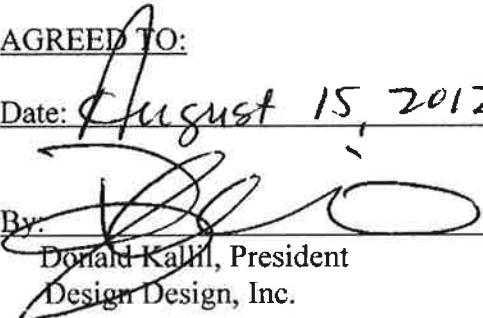
AGREED TO:

Date: _____

By: _____
John Moore

AGREED TO:

Date: August 15, 2012

By: 
Donald Kallil, President
Design Design, Inc.