

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony Held, Ph.D., P.E. and The Gap, Inc.

This Settlement Agreement is entered into by and between Anthony Held, Ph.D., P.E. (“Dr. Held”) and The Gap, Inc., Banana Republic, LLC, and Old Navy, LLC, (collectively, “Gap”), with Dr. Held and Gap collectively referred to as the “Parties.” Dr. Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Gap 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 section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Dr. Held alleges that Gap has manufactured, distributed, and/or sold in the state of California toiletry cases/bags, cosmetic cases/bags, and luggage tags containing di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 warnings. DEHP is listed pursuant to Proposition 65, as a chemical known to the State of California to cause birth defects and other reproductive harm.

1.3 Product Description

The following products are covered by this Settlement Agreement (“Products”):

- (a) *Nail Care Kit, #753642-01-1 (#1 24888 10000 0);*
- (b) *Cosmetic Case, #685585-00-1 (#1 58644 90000 9);*
- (c) *Cosmetic Bag, #675820-03-1 (#1 46915 70000 7);*
- (d) *Zip Case, #675910-00-1 (#1 46964 50000 9);*

(e) *PRT Luggage Tag, #638287-05-1 (#1 59373 10000 5)*; and

(f) *Novelty Luggage Tag, Clover, #638288-01-1 (#1 59421 90000 7)*.

1.4 Notice of Violation

On or about April 8, 2011, Dr. Held served Gap and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided Gap and such public enforcers with notice that Gap was alleged to be in violation of Proposition 65 for failing to warn consumers that the Products exposed users in California to DEHP. To the best of the Parties’ knowledge, no public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

Gap denies the material factual and legal allegations contained in Dr. Held’s Notice and maintains that the Products have been and are in compliance with all laws, including Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by Gap of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Gap of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Gap. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of Gap under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean September 30, 2011.

2. INJUNCTIVE RELIEF

2.1 Reformulation Commitment

As of the Effective Date, Gap represents that it has ceased selling the Products in California. However, commencing on the Effective Date, Gap shall, if it decides to offer the Products for sale in California in the future, only offer DEHP-Free Products. For the purposes of this Settlement Agreement, DEHP-Free shall mean Products that contain less than or equal to 1,000 parts per million of DEHP when analyzed pursuant to EPA testing methodologies 3580A and 8270C, or any method allowed by any state or federal agency to assess the DEHP content by weight of a solid substance.

3. MONETARY PAYMENTS

Pursuant to Health & Safety Code section 25249.7(b) the total civil penalty assessed shall be \$6,000. Civil penalties are to be apportioned in accordance with California Health & Safety Code section 25249.12, subsections (c)(1) & (d), with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% to Dr. Held.

Gap shall issue two separate checks for the penalty payment: (a) one check made payable to "The Office of Environmental Health Hazard Assessment" in the amount of \$4,500, representing 75% of the total penalty; and (b) one check to "Anthony Held" in the amount of \$1,500, representing 25% of the total penalty.

Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of \$4,500. The second 1099 shall be issued to Dr. Held in the amount of \$1,500 whose address and tax identification number shall be furnished, upon

request, three calendar days before payment is due. Payment shall be delivered by October 12, 2011, to the "Payment 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 Dr. Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5, for all work performed in this matter. Under these legal principles, Gap shall pay the total of \$28,000 for fees and costs incurred as a result of investigating, bringing this matter to the attention of Gap, and negotiating a settlement in the public interest. Gap shall make a separate check payable to "The Chanler Group," issue a separate 1099 for fees and costs (EIN: 94-3171522), and deliver payment by October 12, 2011, to the Payment Address.

5. RELEASE OF ALL CLAIMS

5.1 Dr. Held's Release of Gap

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Dr. Held, on behalf of himself, his past and current agents, representatives, attorneys, including, without limitation, The Chanler Group, successors and/or assignees, and in the interest of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, 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) of any nature whatsoever (collectively "Claims") that were brought or could have been brought against Gap or its subsidiaries or affiliates, and each of Gap's downstream customers, distributors, wholesalers, retailers, licensors, licensees, or any other person in the course of doing business, and the successors and assigns of any of them, who may use, maintain, manufacture, distribute, advertise, market or sell Products, and the officers, directors, managers, employees, members, shareholders, agents, insurers and representatives of each of them (collectively "Releasees") that arise under Proposition 65, as such claims relate to Gap's alleged failure to warn about exposures to DEHP contained in the Products sold or offered for use in California. The Parties further understand and agree that this release shall not extend upstream to any third parties that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products, or any component parts thereof, to Gap.

Compliance with the terms of this Settlement Agreement resolves any issue, now and in the future, concerning compliance by Gap and Gap's Releasees with the requirements of Proposition 65 with respect to alleged exposure to DEHP from the Products distributed or sold by Gap.

5.2 Gap's Release of Dr. Held

Gap waives any and all claims against Dr. Held, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Dr. Held and his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

6. 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 and/or DEHP, then Gap shall provide written notice to Dr. Held 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.

7. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be sent by: (i) personal delivery; (ii) first-class, registered or certified mail, return receipt requested; or (iii) overnight courier on any party by the other party at the following addresses:

For Gap:

Mark Epstein
Senior Corporate Counsel
The Gap, Inc.
Two Folsom Street
San Francisco, CA 94105

With a copy to:

Jeffrey Margulies
Fulbright & Jaworski L.L.P.
555 S. Flower St., 41st Floor
Los Angeles, California 90071

For Dr. Held:

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.

8. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

9. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)

Dr. Held agrees to comply with the reporting form requirements referenced in Health & Safety Code section 25249.7(f).

10. MODIFICATION

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

11. AUTHORIZATION

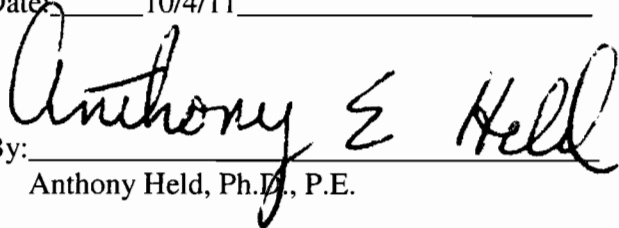
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: 10/4/11

Date: _____

By: 
Anthony Held, Ph.D., P.E.

By: _____

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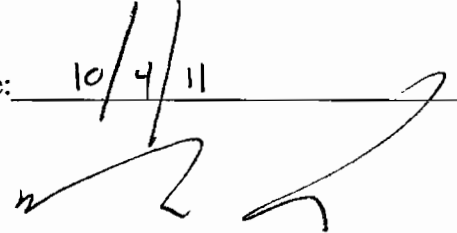
AGREED TO:

Date: _____

By: _____
Anthony Held, Ph.D., P.E.

AGREED TO:

Date: 10/4/11 _____

By:  _____
Mark Epstein