

## SETTLEMENT AGREEMENT

### 1. INTRODUCTION

#### 1.1 Anthony Held and L'Occitane, Inc.

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. ("Dr. Held") and L'Occitane, Inc., ("L'Occitane"), with Dr. Held and L'Occitane collectively referred to as the "Parties." Dr. Held is an individual residing in the State of California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. L'Occitane 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

Dr. Held alleges that L'Occitane has manufactured, distributed, sold and/or offered for sale in California toiletry cases/bags containing the phthalate chemical di(2-ethylhexyl)phthalate ("DEHP") without the requisite Proposition 65 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: toiletry cases/bags manufactured, distributed, sold and/or offered for sale in California by L'Occitane and containing DEHP including, but not limited to, *L'Occitane En Provence Verbena Getaway Treasures (Item Nos. 960353/973957)*, *Luxury Pouch (Item No. 980 535)*; *Aroma Repair Pouch (Item No. 49TRARO08)*; *Man Discovery Pouch (Item No. 49TROPHO7)*; and *Brilliant B. Set White (Item No. 963279)*, hereinafter referred to collectively as the "Products."

#### 1.4 Notice of Violation

On or about April 8, 2011, Dr. Held served L'Occitane 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 L’Occitane for failing to warn its customers and consumers in California that the Products it sold 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**

L’Occitane 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 L’Occitane 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 L’Occitane of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by L’Occitane. However, this section shall not diminish or otherwise affect L’Occitane’s obligations, responsibilities, and duties under this Settlement Agreement. Furthermore, L’Occitane, pursuant to this agreement, expressly reserves all rights, remedies, and defenses afforded it under Proposition 65.

**1.6 Effective Date**

For purposes of this Settlement Agreement, the term “Effective Date” shall mean October 31, 2011.

**2. INJUNCTIVE RELIEF: REFORMULATION**

**2.1 Reformulation Commitment**

As of the Effective Date, L’Occitane shall only manufacture, import, distribute, sell or offer for sale in California Products that are Phthalate Free. For purposes of this Settlement Agreement, “Phthalate Free” Products shall mean Products containing less than or equal to 1,000 parts per million (0.1%) of the DEHP when analyzed pursuant to

Environmental Protection Agency testing methodologies 3580A and 8270C.

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

In settlement of all claims referred to in this Settlement Agreement, L'Occitane shall pay \$10,000 in combined penalty payments and credits in civil penalties.

For its cooperation in the settlement process and its commitment to reformulate the Products to be Phthalate Free pursuant to Section 2.1 above, Dr. Held shall provide L'Occitane with a penalty credit of \$5,000. Thereafter, the remaining penalty amount of \$5,000 will be paid by L'Occitane 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 Dr. Held.

L'Occitane shall issue two checks for the penalty payment: (a) one check payable to "The Chanler Group in Trust for OEHHA" in the amount of \$3,750, and (b) one to "The Chanler Group in Trust for Dr. Anthony E. Held" in the amount of \$1,250. 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) Dr. Anthony E. Held, 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 Effective Date to 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 acknowledge that Dr. Held and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. L'Occitane then expressed a desire to resolve the fee and cost issue shortly

after the other settlement terms had been finalized. The parties then attempted to (and did) reach an accord on the compensation due to Dr. Held and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, L'Occitane shall reimburse Dr. Held's counsel for fees and costs incurred as a result of investigating, bringing this matter to L'Occitane's attention, and negotiating a settlement in the public interest. L'Occitane shall pay Dr. Held's counsel \$31,000 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 on or before the Effective Date to the following address:

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

L'Occitane 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 Full, Final and Binding Resolution of Proposition 65 Allegations**

This Settlement Agreement is a full, final and binding resolution between Dr. Held, on behalf of himself and the public, and L'Occitane, of any violation of Proposition 65 or, from any and all claims, liabilities, demands, causes of action, damages and losses whatsoever in law or in equity ("Claims") pertaining to Proposition 65 from the beginning of time to the date of this instrument that were or could have been asserted by Dr. Held against L'Occitane, its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, attorneys, and each entity to whom L'Occitane directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on their failure to warn about alleged exposures to DEHP contained in the Products that were sold by L'Occitane.

### **5.2 Dr. Held's Public Release of Proposition 65 Claims**

In further consideration of the promises and agreements herein contained, Dr. Held on behalf of himself, his past and current agents, representatives, attorneys, 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 against L'Occitane and Releasees 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 -- arising under Proposition 65 with respect to DEHP in the Products sold by L'Occitane.

### **5.3 Dr. Held's Individual Release of Claims**

Dr. Held also, in his individual capacity only and not in his representative capacity, provides a 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 plaintiff of any nature, character or kind, whether known or unknown, suspected or unsuspected against L'Occitane and Releasees, limited to and arising out of alleged or actual exposures to DEHP in the Products manufactured, distributed or sold by L'Occitane.

### **5.4 L'Occitane's Release of Dr. Held**

L'Occitane on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby 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 to enforce Proposition 65 against it in this matter with respect to the Products.

**6. POST EXECUTION ACTIVITIES**

The parties intend and agree that this Settlement Agreement shall be given full effect for purposes of precluding claims regarding the Products against L'Occitane or the Releasees under Proposition 65 as covered under this release. If requested in writing by L'Occitane (within twelve months of the Effective Date), L'Occitane may ask Dr. Held to file a complaint and seek approval of this Settlement Agreement through a court approved consent judgment incorporating the terms of this Settlement Agreement pursuant to California Health and Safety Code § 25249.7, or as may be otherwise allowed by law. If requested, Dr. Held agrees to reasonably cooperate with L'Occitane and to use best efforts and that of his counsel to support the entry of a consent judgment incorporating the terms of this Settlement Agreement for approval by a superior court in California. Pursuant to CCP §§ 1021 and 1021.5, L'Occitane will reimburse Dr. Held and his counsel for their reasonable fees and costs incurred in filing the complaint and seeking judicial approval of this Settlement Agreement in an amount not to exceed \$16,000. No fees under this paragraph will be due and owing to Dr. Held or his counsel unless a written request is made by L'Occitane to have Dr. Held file a complaint and seek a consent judgment. L'Occitane will remit payment to The Chanler Group, at the address set forth in Section 4 above. Such additional fees shall be paid by L'Occitane within ten days after its receipt of monthly invoices from Dr. Held for work performed under this paragraph. In the event a third party were to appeal the entry of a consent judgment sought pursuant to this Section 6, Dr. Held and his counsel shall be entitled to seek their fees and costs associated with all such appealed work pursuant to CCP § 1021.5.

**7. SEVERABILITY**

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected

**8. 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 L'Occitane 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.

**9. 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 L'Occitane:

Reinold Geiger, President  
L'Occitane, Inc.  
1430 Broadway, Floor 2  
New York, NY 10018

With copy to:

Richard P. Jacobson  
Colucci & Umans  
218 E. 50<sup>th</sup> Street  
New York, NY 10022

To 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.

**10. 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.

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

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

**12. MODIFICATION**

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

**13. 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: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED**

*By Anthony Held at 4:53 pm, Oct 21, 2011*

By: \_\_\_\_\_

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

By: \_\_\_\_\_

Wilfrid Poisnel, CFO  
L'Occitane, Inc.



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AGREED TO:

AGREED TO:

Date: \_\_\_\_\_

Date: 10/19/2011

By: \_\_\_\_\_

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

By:  \_\_\_\_\_

Wilfrid Poisnel, CFO  
L'Occitane, Inc.