

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Laurence Vinocur and Hoshino (USA), Inc.

This Settlement Agreement is entered into by and between Laurence Vinocur (hereinafter “Vinocur”) and Hoshino (USA) Inc., (hereinafter “Hoshino”), with Vinocur and Hoshino collectively referred to as the “Parties.” Vinocur 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. Hoshino 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, Health & Safety Code § 25249.6, *et seq.* (“Proposition 65”).

1.2 General Allegations

Vinocur alleges that Hoshino has manufactured, distributed, sold and offered for sale in the State of California certain stools with vinyl/PVC seats containing di(2-ethylhexyl)phthalate (“DEHP”). DEHP and other phthalates including butyl benzyl phthalate (“BBP”) and Di-n-butyl phthalate (“DBP”) are listed under Proposition 65 as chemicals known to cause birth defects and other reproductive harm. DEHP, BBP, and DBP are collectively referred to herein as “Listed Chemicals.”

1.3 Product Description

The products that are addressed by this Settlement Agreement are stools, including drum thrones, with vinyl/PVC seats containing one or more of the Listed Chemicals manufactured, distributed, sold and offered for sale in the State of California (referred to hereinafter as the “Products”).

1.4 Notice of Violation

On or about April 3, 2013, Vinocur served Hoshino and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (the “Notice”) that provided Hoshino and such public enforcers with notice that alleged that Hoshino was in violation of Proposition 65 for failing to warn consumers and customers that the Products exposed users in California to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

Hoshino denies the material factual and legal allegations contained in Vinocur’s Notice and maintains that all 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 Hoshino 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 Hoshino of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Hoshino. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of Hoshino under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is fully executed.

2. INJUNCTIVE RELIEF:

2.1 Reformulation Commitment

As of August 31, 2013, Hoshino shall only manufacture, or cause to be manufactured, for sale in California, Products with vinyl or pliable PVC components that may be handled, touched or mouthed by a consumer if those components yield less than or equal to 1,000 ppm each of DEHP, BBP, and DBP, when analyzed pursuant to EPA testing methodologies 3580A and

8270C or equivalent methodologies utilized by federal or state agencies for the purpose of determining phthalate content (hereinafter “Reformulated Products”).

2.2 Commitment to Cease Distribution of Non-Reformulated Inventory

As of the Effective Date, Hoshino shall not distribute Products for sale in California to the extent they do not meet the reformulation standard contained in Section 2.1 above.

2.3 Exceptions

The requirements set forth in Sections 2.1 and 2.2 shall not apply to:

(i) Any Products distributed for sale in California by Hoshino prior to the Effective Date; and/or

(ii) Any Products shipped by Hoshino for sale outside of California.¹

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

In settlement of all the claims referred to in this Settlement Agreement, Hoshino shall pay a total of \$16,000 in civil penalties in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Vinocur as follows:

3.1 Initial Civil Penalty

Hoshino shall pay an initial civil penalty in the amount of \$4,000 on or before ten days following the Effective Date. Hoshino shall issue two separate checks to: (a) “OEHHA” in the amount of \$3,000; and (b) “The Chanler Group in Trust for Vinocur in the amount of \$1,000.

All penalty payments shall be delivered to the addresses listed in Section 3.4 below.

¹ Products Hoshino manufactures, or causes to be manufactured for sale outside of California are exempted from this agreement but may either meet the reformulation commitment set forth above or, if distributed by Hoshino after August 31, 2013, bear clear and reasonable Proposition 65 warnings so as to address the statute’s requirements in the event that Products are transshipped or reshipped into California without Hoshino’s knowledge.

3.2 Final Civil Penalty

Hoshino shall pay a final civil penalty of \$12,000 on or before December 31, 2013. The final civil penalty shall be waived in its entirety, however, if, no later than December 13, 2013 an officer of Hoshino provides Vinocur with written certification that, as of December 2, 2013, and continuing into the future, Hoshino has met the reformulation standard specified in Section 2.1 above, such that all Products manufactured, distributed, sold and offered for sale in California by Hoshino are Reformulated Products. Vinocur must receive any such certification on or before December 13, 2013. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence. Hoshino shall issue two separate checks for its final civil penalty payments to: (a) "OEHHA" in the amount of \$9,000; and (b) "The Chanler Group in Trust for Vinocur" in the amount of \$3,000.

3.3 Payment in Lieu of Civil Penalty

Hoshino shall pay the sum of \$2,000 to Silent Spring Institute ("Silent Spring"), a not-for-profit institution, in lieu of further civil fines pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3202(b) on or before ten days following the Effective Date. Silent Spring will use the funds in one or more of the following ways: (a) to continue its work identifying the links between exposures to potentially harmful chemicals, including lead, DEHP, di-n-butyl phthalate ("DBP") and butyl benzyl phthalate ("BBP"), and the associated risks of cancer or reproductive and developmental harm, as well as to educate the public about such exposures; (b) to conduct exposure- and risk-based prioritization of Proposition 65-listed chemicals and those chemicals OEHHA identifies as candidates for listing, in order to identify exposures of public health significance; (c) to monitor compliance with the reformulation requirements of this and similar settlements addressing Proposition 65-listed chemical exposures; or (d) to conduct exposure assessments to evaluate the risks of exposures to lead, DEHP, DBP, BBP and other Proposition 65-listed chemicals.

3.4 Payment Procedures

3.4.1. Issuance of Payments. Payments shall be delivered as follows:

(a) All payments owed to the Silent Spring Institute, Vinocur and Vinocur's counsel pursuant to Sections 3.1 through 3.3, shall be delivered to the following payment address:

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

(b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Sections 3.1 through 3.2, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyrics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

A copy of the checks payable to OEHHA shall be mailed to The Chanler Group at the address set forth above in Section 3.4.1(a), as proof of payment to OEHHA.

3.4.2 Issuance of 1099 Forms. After each penalty payment, Hoshino shall issue separate 1099 forms for each payment to Vinocur, whose address and tax identification number shall be furnished upon request after this Settlement Agreement has been fully executed by the Parties, OEHHA, and Silent Spring at the addresses listed in Section 3.4.1 above.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge the Vinocur 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.

Vinocur then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties reached an accord on the compensation due to Vinocur and his counsel under the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Hoshino shall reimburse Vinocur's counsel for fees and costs, incurred as a result of investigating, bringing this matter to Hoshino's attention, and negotiating a settlement in the public interest. Hoshino shall pay Vinocur and his counsel \$26,000 for all attorneys' fees, expert and investigation fees, and related costs. The payment shall be issued in a fourth separate check made payable to "The Chanler Group" and shall be delivered on or before ten days following the Effective Date, at the following address:

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

Hoshino shall issue a separate 1099 for fees and cost paid in the amount of \$26,000 to The Chanler Group, Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, California 94710 (EIN: 94-3171522).

5. RELEASE OF ALL CLAIMS

5.1 Release of Hoshino and Downstream Customers

This Settlement Agreement is a full, final and binding resolution between Vinocur and Hoshino of any violation of Proposition 65 that was or could have been asserted by Vinocur on behalf of himself his past and current agents, representatives, attorneys, successors and/or assignees, against Hoshino, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Hoshino directly or indirectly distributes or sells Products including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees (hereinafter "Releasees"), based on their failure to warn about alleged exposures to the Listed Chemicals contained in the

Products that were manufactured, distributed, sold and/or offered for sale by Hoshino in California before the Effective Date.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Vinocur, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, 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, but exclusive of fees and costs on appeal) of any nature whatsoever, whether known or unknown, fixed or contingent against Hoshino and Releasees. This release is limited to those claims that arise with respect to the Listed Chemicals under Proposition 65 which are contained in the Products.

5.2 Hoshino's Release of Vinocur

Hoshino, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Vinocur, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Vinocur 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. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement, Hoshino may ask Vinocur, in writing, to file a complaint in the public interest, to 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 § 25249.7, or as may be otherwise allowed by law. If so requested, Vinocur agrees to reasonably cooperate with Hoshino and the Parties agree to use their best efforts, and that of their counsel, to support the entry of a consent

judgment by a superior court in California. Pursuant to Code of Civil Procedure §§ 1021 and 1021.5, Hoshino will reimburse Vinocur 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 \$15,000, exclusive of fees and costs that may be incurred on appeal. Hoshino will remit payment to The Chanler Group, at the address set forth in Section 4 above. Such additional fees shall be paid by Hoshino within ten days after its receipt of monthly invoices from Vinocur for work performed under this paragraph.

7. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held 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 Hoshino shall provide written notice to Vinocur 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: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party at the following addresses:

For Hoshino:
Ken Youmans
Director of Communications
Hoshino (USA), Inc.
1726 Winchester Road
PO Box 886
Bensalem, PA 19020

For Vinocur:
Proposition 65 Coordinator
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710

with a copy to:

Robert L. Falk, Esq.
Morrison & Foerster LLP
425 Market Street, 32nd Floor
San Francisco, California 94105

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; SIGNATURES

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

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

Vinocur agrees to comply with the reporting form requirements referenced in Health & Safety Code § 25249.7(f).

12. MODIFICATION

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

13. AUTHORIZATION

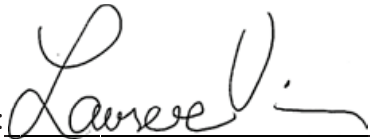
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: June 28, 2013

Date: June ___, 2013

By: 

Laurence Vinocur

By: _____
Hoshino (USA), Inc.

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

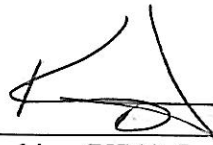
AGREED TO:

Date: _____ Date: June __, 2013

By: _____
Lawrence Vinocur

AGREED TO:

Date: June 27, 2013

By: 
Hoshino (USA), Inc.
Kenneth E. Youmans