

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (Held) and Peavey Electronics Corporation (Peavey), with Held and Peavey each individually referred to as a “Party” and collectively as the “Parties.” Held is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Peavey 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

Held alleges that Peavey manufactures, sells, and/or distributes for sale in California, vinyl/PVC guitar straps that contain the toxic chemical di(2-ethylhexyl)phthalate (“DEHP”). DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Held alleges that Peavey failed to provide the health hazard warning required by Proposition 65 for exposures to DEHP from vinyl/PVC guitar straps.

1.3 Product Description

The products that are covered by this Settlement Agreement are vinyl/PVC guitar straps containing DEHP that are/were manufactured, sold and/or distributed for sale in California by Peavey (collectively, “Products”).

1.4 Notice of Violation

On or about June 4, 2014, Held served Peavey 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 Peavey 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

Peavey 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 Peavey 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 Peavey of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Peavey. However, this Section shall not diminish or otherwise affect Peavey'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 March 2, 2015.

2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS

Commencing on the Effective Date and continuing thereafter, Peavey shall only purchase for sale or manufacture for sale in California, Reformulated Products. For purposes of this Settlement Agreement, "Reformulated Products" are Products that either (a) contain no more than 1,000 ppm (0.1%) DEHP content when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C, or equivalent methodologies used by state or federal agencies for purposes of determining DEHP content in a solid substance or (b) contain the following language: "WARNING: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm." ("the warning"). Peavey shall provide, or shall cause to be provided, the warning on the label of all Products distributed into California. The

warning shall be at least the same size as the largest of any other health or safety warnings correspondingly appearing on the label and the word “WARNING” shall be in all capital letters and in bold print. Peavey must display the warning with such conspicuousness, as compared with other words, statements, or design of the label to render the warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the Product.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Peavey agrees to pay \$2,000 in civil penalties. Each penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Held. Within seven calendar days of the Effective Date, Peavey shall pay an initial civil penalty in the amount of \$2,000. Peavey will provide its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the amount of \$1500; and (b) “The Chanler Group in Trust for Anthony E. Held, Ph.D., P.E.” in the amount of \$500.

3.2 Reimbursement of Held’s Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to Held and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, within seven calendar days of the effective date, Peavey agrees to pay \$18,750 to Held and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of Peavey’s management, and negotiating a settlement in the public interest.

3.3 Payment Address

All payments required by this Settlement Agreement shall be delivered to the following address:

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

4. CLAIMS COVERED AND RELEASED

4.1 Held's Release of Peavey

This Settlement Agreement is a full, final and binding resolution between Held and Peavey, of any violation of Proposition 65 that was or could have been asserted by Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Peavey, its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, attorneys, and each entity to whom Peavey 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 manufactured, distributed, sold or offered for sale by Peavey in California before the Effective Date.

In further consideration of the promises and agreements herein contained, Held, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any right 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 and in equity, all suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees, but exclusive of fees and costs on appeal, if any, arising under Proposition 65 with respect to exposures to DEHP from Products manufactured, distributed, sold and/or offered for sale

by Peavey before the Effective Date. The releases provided by Held under this Settlement Agreement are provided solely on Held's behalf and are not releases on behalf of the public.

4.2 Peavey's Release of Held

Peavey, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Held and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Held 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.

5. 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.

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, then Peavey may provide written notice to 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.

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7. **NOTICE**

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

For Peavey:

Courtland Gray, General Counsel
Peavey Electronics Corporation
5022 Hartley Peavey Drive
Meridian, MS 39305

with copy to:

Jeffrey D. Polsky, Esq.
Fox Rothschild LLP
345 California Street, Suite 2200
San Francisco, CA 94104

For Held:

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

Any Party may, from time to time, specify in writing to the other 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 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.

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

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

10. **MODIFICATION**

This Settlement Agreement may be modified only by 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: February 24, 2015

Date: 26/02/2015

By: 
ANTHONY E. HELD, PH.D., P.E.

By: 
Courtland Gray, General Counsel
PEAVEY ELECTRONICS CORPORATION