

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Dr. Whitney R. Leeman (“Leeman”) and Annie International, Inc. (“Annie”) with Leeman and Annie each individually referred to as a “Party” and collectively as the “Parties.” Leeman 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. Leeman alleges that Annie 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

Leeman alleges that Annie manufactures, sells, and/or distributes for sale in California, hair brushes with vinyl/PVC grips containing the phthalate 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. Leeman alleges that Annie failed to provide the health hazard warning required by Proposition 65 for exposures to DEHP from the vinyl/PVC grips of its hair brushes.

1.3 Product Description

The products covered by this Settlement Agreement are hair brushes with vinyl/PVC grips containing DEHP that are manufactured, sold or distributed for sale in California by Annie, including, but not limited to, the *Annie Professional Loop Brush, #2033, UPC #7 05372 02033 4* (collectively, the “Products”).

1.4 Notice of Violation

On January 23, 2015, Leeman served Annie and the requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that Annie violated Proposition 65 when it failed to warn its customers and consumers in California of the health hazards

associated with exposures to DEHP in its Products. 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

Annie 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 Annie 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 Annie of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Annie. This Section shall not, however, diminish or otherwise affect Annie'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 3, 2015.

2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS & WARNINGS

2.1 Reformulated Products

Commencing on September 1, 2015, and continuing thereafter, Annie agrees to only manufacture, distribute, or purchase for sale in or into California, (a) "Reformulated Products", or (b) Products that are sold with a clear and reasonable health hazard warning, pursuant to Section 2.2 below. For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products containing no more than 1,000 parts per million (0.1%) DEHP in any accessible component (i.e., any component that may be touched during use) when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C or equivalent methodologies utilized by federal or state agencies for the purpose of determining DEHP content in a solid substance.

2.2 Clear and Reasonable Warnings

Annie agrees that as of the Effective Date, all Products it sells and/or distributes in California (except for those Products already in the stream of commerce, as provided in Section 2.3, below) which do not qualify as Reformulated Products, will bear a clear and reasonable warning pursuant to this Section. Annie further agrees that the warning will be prominently placed with such conspicuousness when compared with other words, statements, designs or devices as to render it likely to be read and understood by an ordinary individual under customary conditions of use. For purposes of this Settlement Agreement, a clear and reasonable warning for the Products shall consist of a warning affixed to the packaging, label, tag, or directly to a Product sold in California and containing one of the following statements:

WARNING: This product contains DEHP, a chemical known to the State of California to cause birth defects or other reproductive harm.

Or

WARNING: This product contains a chemical known to the State of California to cause cancer and birth defects (or other reproductive harm).

2.3 Grace Period for Existing Inventory of Products

Annie represents that, after receiving the Notice, it implemented a health hazard warning for the Products. Leeman agrees that, until it exhausts its current inventory of Products, Annie may continue to sell and offer for sale in California those Products labeled with the following statement: "This product contains chemicals known to the State of California to cause cancer and/or birth defects or other reproductive harm."

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Annie agrees to pay \$13,500 in civil penalties. Each penalty payment will be allocated in accordance with California Health

and Safety Code § 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 Leeman. Leeman’s counsel shall be responsible for delivering OEHHA’s portion of any penalty payment(s) made under this Settlement Agreement to OEHHA.

3.1.1 Initial Civil Penalty. Within seven days of the Effective Date, Annie shall pay an initial civil penalty in the amount of \$4,500. Annie agrees to provide its payment in a single check made payable to “Dr. Whitney R. Leeman, Client Trust Account.” On or before seven days after the Effective Date, Annie shall arrange for overnight mail delivery of the check to the Chanler Group in accordance with Section 3.3, below.

3.1.2 Final Civil Penalty. On or before October 15, 2015, Annie shall pay a final civil penalty of \$9,000. The final civil penalty shall be waived in its entirety, however, if, no later than September 30, 2015, an officer of Annie provides Leeman’s counsel with a signed declaration certifying that, as of the date of the certification, all of the Products Annie is selling or distributing for sale in California are Reformulated Products as defined by Section 2.1, and that it will continue to only offer Reformulated Products in California in the future. The option to provide a written declaration certifying Product reformulation in lieu of making the final civil penalty payment required by this Section is a material term, and time is of the essence. In order to obtain a waiver of the final civil penalty payment required by this Section, Leeman’s counsel must receive Annie’s signed declaration on or before September 30, 2015.

3.2 Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to Leeman and her counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure § 1021.5 for all work performed in this matter. Under these legal principles, within seven days of the Effective Date, Annie agrees to pay \$25,000 in the form of a check made payable to “The Chanler Group” for all fees and costs incurred investigating, bringing this matter to the attention of Annie’s management, and negotiating a settlement in the public interest. On

or before seven days after the Effective Date, Annie shall arrange for overnight mail delivery of the check to the Chanler Group in accordance with Section 3.3, below.

3.3 Payment Address

All payments under this Settlement Agreement shall be delivered to:

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

4. CLAIMS COVERED AND RELEASED

4.1 Leeman's Release of Annie

This Settlement Agreement is a full, final and binding resolution between Leeman, as an individual and not on behalf of the public, and Annie, of any violation of Proposition 65 that was or could have been asserted by Leeman, on her own behalf or on behalf of her past and current agents, representatives, attorneys, successors, and assigns, against Annie and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Annie directly or indirectly distributes or sells Products, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on their alleged failure to warn about alleged exposures to DEHP contained in the Products that were manufactured, distributed, sold or offered for sale by Annie in California before the Effective Date, as alleged in the notice of violation. Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to DEHP from the Products manufactured and distributed by Annie, as set forth in the Notice.

In further consideration of the promises and agreements herein contained, Leeman, as an individual and not on behalf of the public, on behalf of herself, her past and current agents, representatives, attorneys, successors, and assigns, hereby releases Annie and the Releasees, and waives all of Leeman's rights to institute or participate in, directly or indirectly, any form of claim against Annie and the Releasees, including, but not limited to, legal actions, causes of

action in law and in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees, of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising under Proposition 65 with respect to DEHP in the Products, as alleged in the notice of violation, manufactured, distributed, sold and/or offered for sale by Annie before the Effective Date (collectively "claims").

The releases provided by Leeman under this Settlement Agreement are provided solely on Leeman's behalf and are not releases on behalf of the general public.

4.2 Annie's Release of Leeman

Annie, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assigns, hereby waives any and all claims against Leeman and her attorneys and other representatives, for any and all actions taken or statements made by Leeman and her attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

4.3 Civil Code § 1542 Waiver

Leeman, her past and current agents, representatives, and attorneys acknowledge that they are 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 SETTLEMENT WITH THE DEBTOR.

Leeman, in her individual capacity only and not in any representative capacity, on behalf of herself and her past and current agents, representatives, attorneys, successors, and/or assignees, expressly waives and relinquishes any and all rights and benefits that she may have under, or which may be conferred on her by the provisions of Civil Code § 1542, limited and pertaining to the released matters, as more clearly defined by Sections 4.1 and 4.2, above.

Annie, its past and current agents, representatives, and attorneys acknowledge that they are 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 SETTLEMENT WITH THE DEBTOR.

Annie, on behalf of itself and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, expressly waives and relinquishes any and all rights and benefits that it may have under, or which may be conferred on it by the provisions of Civil Code § 1542, limited and pertaining to the released matters as more clearly defined by Sections 4.1 and 4.2, above.

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions 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 Annie may provide written notice to Leeman 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. NOTICE

Unless specified herein, all correspondence and notice 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 Annie:

Sarah Bell, Esq.
Farella Braun + Martel LLP
235 Montgomery Street, 18th Floor
San Francisco, CA 94104

Kevin Shinn
Annie International, Inc.
500 Church Road
North Wales, PA 19454

For Leeman:

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)

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

10. MODIFICATION

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

11. ATTORNEYS' FEES AND COSTS

Except as provided in Section 3.2, above, each Party shall bear its/her own attorneys' fees and costs in this matter, except as otherwise provided by law in an action for enforcement of this Settlement Agreement.

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: 8/4/15

Date: Aug 4, 2015

By: Whitney Leeman
DR. WHITNEY R. LEEMAN

By: Kevin Shinn
KEVIN SHINN, CEO
ANNIE INTERNATIONAL, INC.