

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Whitney R. Leeman, Ph.D. and Apothecary Products, Inc.

This Settlement Agreement is entered into by and between Whitney R. Leeman, Ph.D. (“Leeman”), and Apothecary Products, Inc. (now known as Noble Holdings, Inc.) (“API”), and API’s successor in interest, Apothecary Products, LLC (“AP LLC”) (collectively “Apothecary”), with Leeman and Apothecary collectively referred to as the “Parties.” Leeman is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Apothecary employed or employs, as the case may be, ten or more persons and is, or was, as the case may be, 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 §§ 25249.5 *et seq.* (“Proposition 65”).

1.2 General Allegations

Leeman alleges that Apothecary has manufactured, imported, distributed and/or sold in the State of California vinyl/PVC cases for pill/medication organizers containing Di(2-ethylhexyl)phthalate (“DEHP”). 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 products that are covered by this Settlement Agreement are defined as vinyl/PVC cases for pill/medication organization containing DEHP including, but not limited to, *One-Day At-A-Time Medication Planner – Large, #67436, UPC #0 25715 67436 0*, which are manufactured, imported, distributed, sold and/or offered for sale by Apothecary in the State of California, hereinafter the “Products.”

1.4 Notice of Violation

On February 26, 2014, Leeman served Apothecary and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) alleging that Apothecary was in violation of California Health & Safety Code § 25249.6 for failing to warn consumers 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

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

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean February 25, 2015.

2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS

2.1 Reformulation Standards

Reformulated Products are defined as those Products containing DEHP in concentrations less than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any other methodology utilized by federal or state agencies for the purpose of determining the DEHP content in a solid substance.

2.2 Reformulation Commitment

As of the Effective Date, Apothecary shall not manufacture, import, distribute, sell or offer the Products for sale in the State of California unless they are Reformulated Products pursuant to Section 2.1 above, or shall carry the Proposition 65 warnings specified in Section 2.3 below.

2.3 Product Warnings

Commencing on February 25, 2015, AP LLC shall provide clear and reasonable warnings as set forth in subsections 2.3(a) and (b) for all Products that do not qualify as Reformulated Products (“Non-Reformulated Products”). Each warning shall be prominently placed with such conspicuousness as 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 before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* Non-Reformulated Product(s) the warning applies, so as to minimize the risk of consumer confusion.

(a) Retail Store Sales.

(i) Product Labeling. AP LLC shall affix a warning to the packaging, labeling, or directly on each Non-Reformulated Product provided for sale in retail outlets in California that states:

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

(ii) Point-of-Sale Warnings. Alternatively, AP LLC may provide warning signs in the form below to its customers in California with instructions to post the warnings in close proximity to the point of display of the Non-Reformulated Products. Such instruction sent to AP LLC’s customers shall be sent by certified mail, return receipt requested.

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

Where more than one Non-Reformulated Product is sold in proximity to other like items or to

those that do not require a warning (*e.g.*, Reformulated Products as defined in Section 2.1), the following statement shall be used:¹

WARNING: The following products contain DEHP, a phthalate Chemical, known to the State of California to cause birth defects and other reproductive harm:
[list products for which warning is required]

(b) Mail Order Catalog and Internet Sales. In the event that AP LLC sells Products via mail order catalog and/or the internet, to customers located in California, after the Effective Date, that are not Reformulated Products, AP LLC shall provide warnings for such Products sold via mail order catalog or the internet to California residents. Warnings given in the mail order catalog or on the internet shall identify the *specific* Product to which the warning applies as further specified in Sections 2.3(b)(i) and (ii).

(i) Mail Order Catalog Warning. Any warning provided in a mail order catalog shall be in the same type size or larger than the product description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Non-Reformulated Product:

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

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Non-Reformulated Product, AP LLC may utilize a designated symbol to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front cover of the catalog or on the same page as any order form for the Non-Reformulated Product(s):

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

¹For purposes of the Settlement Agreement, “sold in proximity” shall mean that the Product and another similar product are offered for sale close enough to each other that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Non-Reformulated Product. On each page where the designated symbol appears, Apothecary must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

(ii) **Internet Website Warning.** A warning shall be given in conjunction with the sale of the Non-Reformulated Products via the internet, which warning shall appear either: (a) on the same web page on which a Non-Reformulated Product is displayed; (b) on the same web page as the order form for a Non-Reformulated Product; (c) on the same page as the price for any Non-Reformulated Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Non-Reformulated Product for which it is given in the same type size or larger than the Product description text:

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

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Non-Reformulated Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

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

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

In settlement of all the claims referred to in this Settlement Agreement, Apothecary shall pay a total of \$10,000 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”) by Leeman. All penalty payments shall be delivered to the address listed in Section 3.3 below.

3.1 Initial Civil Penalty

API shall pay an initial civil penalty in the amount of \$2,500 on or before February 25, 2015. API shall issue a check to “Whitney R. Leeman, Ph.D., Client Trust Account” All penalty payments shall be delivered to the address listed in Section 3.3 below.

3.2 Final Civil Penalty

AP LLC shall pay a final civil penalty of \$7,500 on or before July 30, 2015. The final civil penalty shall be waived in its entirety, however, if, no later than July 15, 2015, an officer of AP LLC provides Leeman with written certification that, as of the date of such certification and continuing into the future, AP LLC has met the reformulation standard specified in Section 2.1 above, such that all Products manufactured, imported, distributed, sold and offered for sale in California by AP LLC are Reformulated Products. Leeman must receive any such certification on or before July 15, 2015. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence. If the certification contemplated herein has not been delivered as set forth above, AP LLC shall issue a check to “Whitney R. Leeman, Ph.D., Client Trust Account” in the amount of \$7,500.

3.3 Payment Procedures

All payments owed to Leeman, pursuant to Sections 3.1 through 3.2, 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

4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Leeman and her 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.

Leeman 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 Leeman and her counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. API shall pay \$25,000 for fees and costs incurred as a result of investigating, bringing this matter to Apothecary's attention, and negotiating a settlement in the public interest. API shall make the check payable to "The Chanler Group" and shall deliver payment on or before February 25, 2015, to the address listed in Section 3.3.1 above.

5. CLAIMS COVERED AND RELEASED

5.1 Leeman's Release of Apothecary

This Settlement Agreement is a full, final and binding resolution between Leeman and Apothecary of any violation of Proposition 65 that was or could have been asserted by Leeman on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, against either API or AP LLC, and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, shareholders, equity holders, employees, attorneys and each entity to whom API or AP LLC directly or indirectly distributes or sells Products including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on their failure to warn about alleged exposures to DEHP contained in the Products that were manufactured, imported, distributed, sold and/or offered for sale by API or AP LLC in California before the Effective Date. This release is provided in Leeman's individual capacity and is not a release on behalf of the public. Leeman acknowledges that she is 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 or her settlement with the debtor.

Leeman, her past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which she may have under, or which may be conferred on her by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the alleged failure to warn about exposures to DEHP contained in the Products that were manufactured, imported, distributed, sold and/or offered for sale by API or AP LLC in California before the Effective Date.

5.2 Apothecary's Release of Leeman

API and AP LLC, each on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Leeman and her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Leeman and her attorneys and other representatives, whether in the course of investigating Proposition 65 claims, otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products. API and AP LLC each acknowledges that it is 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 or her settlement with the debtor.

API and AP LLC each expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by, the provisions of Section 1542 of the California Civil Code, as well as under any other state or federal statute or common law principle

of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

6. 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.

7. 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 if any of the provisions of this Settlement Agreement are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, then Apothecary shall 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. Nothing in this Settlement Agreement shall be interpreted to relieve Apothecary from any obligation to comply with any pertinent state or federal toxics control law.

8. NOTICES

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

For API:

Stephen A. Tight
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
Ph: (612) 492-7055
Fax: (612) 492-7077

And

Aaron P. Allan
Glaser Weil Fink Howard Avchen & Shapiro LLP
10250 Constellation Blvd., 19th Floor
Los Angeles, CA 90067
Ph: 310.553.3000
Fax: 310.785.3579

For AP LLC:

Melissa A. Jones, Esq.
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

For Leeman:

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.

9. COUNTERPARTS; FACSIMILE AND 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.

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

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

11. MODIFICATION

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

12. AUTHORIZATION

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

[The remainder of this page left blank intentionally – Signature page follows]

AGREED TO:

Date: 2/26/15

By: Whitney R. Leeman
Whitney R. Leeman, Ph.D.

AGREED TO:

Date: 3-4-15

By: Terry Noble
Terrance Noble - CEO and President
Apothecary Products, Inc.

AGREED TO:

Date: 3/16/2015

By: David Kramer
David Kramer, Vice President Operations
Apothecary Products, LLC