

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Dr. Whitney R. Leeman and Mayhew Steel Products, Inc.

This Settlement Agreement is entered into by and between Dr. Whitney R. Leeman (“Leeman”) and Mayhew Steel Products, Inc. (“Mayhew”), with Leeman and Mayhew collectively referred to as the “Parties.” Leeman is an individual residing in the State of California who seeks to promote awareness of exposure to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer and commercial products. Mayhew employs ten or more persons 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 Mayhew has manufactured, imported, distributed, sold, and/or offered for sale in the State of California vinyl/PVC grips containing Di-n-butyl phthalate (“DBP”), without the requisite Proposition 65 health hazard warnings. DBP is 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 a category of products referred to as tools with vinyl/PVC grips, which include, but are not limited to, the *Tweaker Lumber Leverage Tool, EDP 41500, UPC # 0 45256 41500 0*, manufactured, imported, distributed, shipped, sold and/or offered for sale or shipment by Mayhew in the State of California, hereinafter “Products.”

1.4 Notice of Violation

On July 30, 2014, Leeman served Mayhew and various public enforcement agencies with a document entitled, “60-Day Notice of Violation” (“Notice”), which provided the recipients with notice of alleged violations of California Health & Safety

Code § 25249.6 for failing to warn consumers and customers that the Products exposed users in California to DBP. 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

Mayhew denies the material, factual and legal allegations contained in Leeman's Notice and maintains that all products that it has sold, manufactured, imported, distributed, and/or offered for sale 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 Mayhew 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 Mayhew of any fact, finding, conclusion, issue of law, or violation of law. However, this section shall not diminish or otherwise affect Mayhew'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 December 15, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Commitment to Reformulate Products

Commencing on February 1, 2015, and continuing thereafter, Mayhew commits that the Products it manufactures, imports, distributes, ships, sells or offers to ship for sale in California, will be "Reformulated Products."

2.2 Reformulation Standards

For purposes of this Settlement Agreement, Reformulated Products comply with the following content limits: DBP in concentration less than 1,000 parts per million ("ppm") by weight in any Accessible Component (i.e. any component that may be touched or handled during a reasonably foreseeable use) when analyzed pursuant to EPA testing methodologies 3580A and 8270C, or equivalent methodologies utilized by state or

federal agencies for the purpose of determining DBP content in a solid substance.

2.3 Sales of Products with Warnings

Nothing in this consent judgment shall preclude Mayhew from shipping and selling in California its existing inventory of Products. Commencing on the Effective Date, Mayhew agrees that any Products that Mayhew manufactured prior to the Effective Date, and which Mayhew directly distributes to, imports to, ships to, sells in, or offers for sale in California that are not Reformulated Products as defined in Section 2.1 will include a warning affixed to the packaging, labeling, or directly on each Product that states:

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

2.4 Retail Store Product Labeling

After the Effective Date, Mayhew shall affix a warning to the packaging, labeling, or directly on each non-reformulated Product provided for retail sale in California that states:

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

2.5 Point of Sale Warnings

Alternatively, Mayhew may provide warning signs in the form below to its customers in California with instruction to post warnings in close proximity to the point of display of the Products. Such instruction sent to Mayhew retail customers shall be sent by certified mail, return receipt requested.

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

3. PAYMENT OF PENALTIES

Pursuant to Health & Safety Code §25249.7(b), Mayhew shall pay a total of \$13,000.00 in civil penalties.

3.1 Initial Civil Penalty

In settlement of all the claims referred to in this Settlement Agreement, on or before the Effective Date, Mayhew shall pay an initial civil penalty in the amount of \$3,000.00. The civil penalty shall be apportioned in accordance with California Health & Safety Code § 25249.12(c) & (d), with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Dr. Whitney R. Leeman. Mayhew shall issue two separate checks for the penalty payment: (a) one check made payable to OEHHA in the amount of \$2,250.00 representing 75% of the total penalty; and (b) one check to "The Chanler Group in Trust for Dr. Whitney R. Leeman" in the amount of \$750.00, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments. The checks and 1099s shall be delivered to the addresses listed in Section 3.3 below.

3.2 Final Civil Penalty

Pursuant to Health & Safety Code § 25249.7(b), on March 15, 2015, Mayhew shall pay a final civil penalty in the amount \$10,000.00. The final civil penalty shall be waived in its entirety, if, on or before March 1, 2015, an officer of Mayhew certifies to Leeman's counsel, in writing, that all Products sold or offered for sale by Mayhew in California after February 1, 2015, are Reformulated Products, and that Mayhew will continue to do so after the date of certification.

Unless waived, the final civil penalty shall be allocated according to Health & Safety Code § 25249.7(c)(1) and (d), with 75% of the penalty payment earmarked for

OEHHA, and the remaining 25% of the penalty earmarked for Leeman. Mayhew shall issue two separate checks for the final penalty payment: (a) one check made payable to OEHHA in the amount of \$7,500.00 representing 75% of the total penalty; and (b) one check to “The Chanler Group in Trust for Dr. Whitney R. Leeman” in the amount of \$2,500.00, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments. The checks and 1099s shall be delivered to the addresses listed in Section 3.3 below.

3.3 Payment Procedures

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

- (a) 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

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

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment

1001 I Street
Sacramento, CA 95814

A copy of the checks payable to OEHHA shall be mailed to
The Chanler Group at the address set forth above in 3.3.1(a), as
proof of payment to OEHHA.

4. REIMBURSEMENT OF ATTORNEY'S 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 issue to be resolved after the material terms of the agreement had been settled. Mayhew 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 ("CCP") § 1021.5, for all work performed through the mutual execution of this agreement. Mayhew shall reimburse Leeman and her counsel \$26,000.00 for fees and costs incurred as a result of investigating, bringing this matter to its attention, and negotiating a settlement. Mayhew shall issue a separate 1099 for fees and costs (EIN: 94-3171522), shall make the check payable to "The Chanler Group," and shall deliver payment 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

5. RELEASES

5.1 Leeman's Release of Mayhew

This Settlement Agreement is a full, final and binding resolution between Leeman and Mayhew 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, assignees against Mayhew, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Mayhew directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, "Releasees"), based on their failure to warn about alleged exposures to DBP contained in the Products that were manufactured, distributed, shipped, sold and/or offered for sale or shipment by Mayhew in California prior to the Effective Date.

In further consideration of the promises and agreements herein contained, Leeman on behalf of herself, her 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 that Leeman may have, 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 – limited to and arising under Proposition 65 with respect to DBP in the Products manufactured, distributed, shipped, sold and/or offered for sale or shipment by Mayhew prior to the Effective Date (collectively "claims"), against Mayhew and Releasees.

5.2 Mayhew's Release of Leeman

Mayhew 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 claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

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, preempted 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 Mayhew 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 Mayhew from an obligation to comply with any pertinent state or federal toxic control laws.

8. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

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 courier on any party by the other party at the following addresses:

To Mayhew:

John Lawless
President
Mayhew Steel Products, Inc.
199 Industrial Boulevard
Turner Falls, MA 01376

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

To 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.

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)

Leeman and her attorneys agree to comply with the reporting 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.

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14. 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.

AGREED TO:

AGREED TO:

Date: _____

Date: 12/11/14

By: _____
Dr. Whitney R. Leeman

By: WRS Leeman
President Secretary / Treasurer
Mayhew Steel Products, Inc.

14. 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.

AGREED TO:

AGREED TO:

Date: 12/5/14

Date: _____

By: Whitney Leeman
Dr. Whitney R. Leeman

By: _____
President
Mayhew Steel Products, Inc.