

# **SETTLEMENT AGREEMENT**

## **1. INTRODUCTION**

### **1.1 John Moore and Standard Motor Products**

This Settlement Agreement (“Settlement Agreement”) is entered into by and between John Moore (“Moore”) and Standard Motor Products, Inc. (“Standard”), with Moore and Standard collectively referred to as the “Parties.” Moore 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. Standard 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 section 25249.5 *et seq.* (as amended, modified or supplemented), and its implementing rules and regulations (“Proposition 65”).

### **1.2 General Allegations**

Moore alleges that Standard manufactures, imports, sells and/or distributes for sale in California, products containing di(2-ethylhexyl)phthalate (“DEHP”), and that it does so without providing the health hazard warning that Moore alleges is required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the state of California to cause birth defects or other reproductive harm.

### **1.3 Product Description**

The products that are covered by this Settlement Agreement are vinyl/PVC electrical tape and vinyl/PVC tool grips containing DEHP that are sold as a part of a kit, including, but not limited to, *Carquest 208 PC Electrical Repair Kit (PVC Electrical Insulating Tape, Wire Stripper/Cutter)*, *WTA208, #13105, UPC #7 27943 59790 8* that are manufactured, imported, distributed, sold and/or offered for sale by Standard in the state of California, hereinafter the “Products.”

#### **1.4 Notices of Violation**

On or about May 26, 2016, Moore served Advance Auto Parts, Inc. (“Advance”) and Carquest Corporation (“Carquest”), and certain requisite public enforcement agencies with a “60-Day Notice of Violation” alleging that Advance and Carquest violated Proposition 65 by failing to warn its customers and consumers in California that the Products expose users to DEHP (the “May 2016 Notice”). Thereafter, on or about October 14, 2016, Moore served Advance, Carquest, and Standard with a Supplemental 60-Day Notice of Violation (the “October 2016 Notice”, and together with the May 2016 Notice, the “Notices”) amending the allegations to include Standard. To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

#### **1.5 No Admission**

Standard denies the material, factual and legal allegations contained in the Notices and maintains that all products that it has sold or 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 Standard of any fact, finding, conclusion of law, issue of law or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Standard of any fact, finding, conclusion of law, issue of law or violation of law. This Section shall not, however, 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 23, 2017.

## **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

### **2.1 Reformulation Standards**

For the purposes of this Settlement Agreement, “Reformulated Products” are defined as those Products containing DEHP in concentrations equal to or 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**

Commencing on the Effective Date, Standard shall not manufacture, import, distribute, sell or offer the Products for sale in the state of California unless they are: (i) Reformulated Products pursuant to Section 2.1 above; or (b) sold with a clear and reasonable warning in accordance with Section 2.3 below.

## **2.3 Clear and Reasonable Warnings**

Commencing on or before the Effective Date, Standard shall provide a clear and reasonable warning as set forth in this subsection in connection with the sale of Products that do not qualify as 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.

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

## **3. MONETARY PAYMENTS**

### **3.1 Civil Penalty**

Pursuant to Health and Safety Code section 25249.7(b), Standard shall pay civil penalties in the amount of \$2,500. The penalty payment shall be allocated according to Health and Safety Code sections 25249.12(c)(1) and (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (“OEHHHA”) and the remaining 25% of the penalty paid to Moore. Within five (5) business days after the Effective Date, Standard shall issue a check payable to “John Moore, Client Trust Account” in the amount of \$625, and a check made payable to “OEHHHA” in the amount of \$1,875, delivered to the address in Section 3.3.

Moore's counsel shall be responsible for remitting Standard's penalty payment under this Settlement Agreement to OEHHA.

### **3.2 Reimbursement of Attorneys' Fees and Costs**

The Parties acknowledge that Moore 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 the issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been finalized, Standard expressed a desire to resolve Moore's fees and costs. The Parties then negotiated a resolution of the compensation due to Moore and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5. For all work performed through the mutual execution of this Settlement Agreement, Standard shall reimburse Moore and his counsel \$18,000. Standard's payment shall be delivered to the address in Section 3.3 in the form of a check payable to "The Chanler Group." Standard shall issue the check within five (5) business days after the Effective Date. The reimbursement shall cover all fees and costs incurred by Moore investigating, bringing this matter to Standard's attention and negotiating a settlement of the matter 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 Moore's Release of Proposition 65 Claims**

Moore, acting on his own behalf and *not* on behalf of the public, releases Standard and its parents, subsidiaries and affiliated entities, and their respective stockholders, directors, officers,

agents, employees, attorneys, successors and assigns, and each entity to whom Standard or its parents, subsidiaries or affiliates directly or indirectly distribute or sell Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees, including, but not limited to, Advance and Carquest and their respective, parents, subsidiaries and affiliated entities, and each of their respective stockholders, directors, officers, agents, employees, attorneys, successors and assigns (collectively, "Releasees"), from all claims for violations of Proposition 65 through the Effective Date based on unwarned exposures to DEHP in the Products, as set forth in the Notice. Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to DEHP from the Products, as set forth in the Notice. The Parties further understand and agree that this Section 4.1 release shall not extend to any entities upstream of Standard that manufactured or distributed the Products or any component parts thereof, except to the extent that such Products or component parts were imported, distributed or sold by Standard.

#### **4.2 Moore's Individual Releases of Claims**

Moore, in his individual capacity only and *not* in his representative capacity, hereby provides a release to the Releasees herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of Moore of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to DEHP in the Products manufactured, imported, distributed, or sold by Standard prior to the Effective Date. The Parties further understand and agree that this Section 4.2 release shall not extend to any entities upstream of Standard that manufactured or distributed the Products or any component parts thereof, except to the extent that such Products or component parts were imported, distributed or sold by Standard. Nothing in this Section affects Moore's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Standard's Products.

**4.3 Standard's Release of Moore**

Standard, on behalf of itself and its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Moore and his attorneys and other representatives, for any and all actions taken or statements made by Moore and his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

**4.4 Mutual Waiver of California Civil Code Section 1542**

The Parties each acknowledge he/it is familiar with Section 1542 of the 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.

The Parties, each on his/its own behalf, and on behalf of his/its past and current agents, representatives, attorneys, successors and/or assignees, expressly waive and relinquish any and all rights and benefits which they may have under, or which may be conferred upon them by the provisions of Civil Code section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent he/it may lawfully waive such rights or benefits pertaining to the released matters, as defined by Sections 4.1 through 4.3, above.

**4.5 Dismissal of Litigation**

Moore and his counsel shall take whatever actions are necessary to ensure that the action captioned as John Moore v. Advance Auto Parts, Inc., et al., pending in the Superior Court of California, County of Alameda, is dismissed in its entirety as to all defendants named therein, without prejudice and without costs or fees, within five (5) business days after the Effective Date.

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, 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 Standard shall provide written notice to Moore of any asserted change in the law and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected. If there is a future revision of Proposition 65 relating to the content of any warning required for exposures to DEHP from the Products, then Standard's compliance with the warning requirements of Proposition 65, as amended, modified or supplemented, shall be deemed to satisfy the requirements of Section 2.3. Nothing in this Settlement Agreement shall be interpreted to relieve Standard from any obligation to comply with any pertinent state or federal toxics control law.

7. **NOTICE**

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 Standard:

Nicholas A. Corrado  
Associate Counsel  
Standard Motor Products, Inc.  
37-18 Northern Blvd,  
Long Island City, NY 11101

For Moore:

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.

**8. 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.

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

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

**10. MODIFICATION**

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

**11. AUTHORIZATION**

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

**12. CONFIDENTIALITY**

Except as required by Proposition 65, neither party, without the prior written consent of the other party, will disclose or cause or allow to be disclosed to any third person (other than its



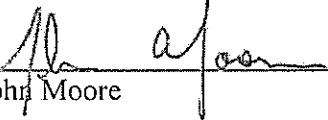
directors, officers, employees, representatives and consultants and, with respect to Standard, the Releasees) the existence of this Settlement Agreement, the terms and conditions hereof, or the fact that the parties have engaged in settlement discussions, except as may be required by law and then only after first notifying the other party of such required disclosure, and disclosing on the advice of counsel no more than necessary to comply with such law.

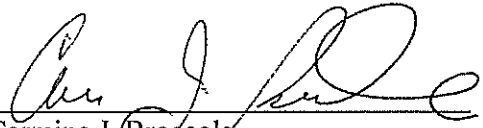
**AGREED TO:**

**AGREED TO:**

Date: 2/22/2017

Date: 2/23/2017

By:   
John Moore

By:   
Carmine J. Broccole  
SVP General Counsel  
Standard Motor Products, Inc.