

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Laurence Vinocur (“Vinocur”) and Inter American Cosmetic, Inc. (“IAC”), with Vinocur and IAC each individually referred to as a “Party” and collectively as the “Parties.” Vinocur 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. Vinocur alleges that IAC 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

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

1.3 Product Description

The products that are covered by this Settlement Agreement are vinyl/PVC toiletry bags containing DEHP including, but not limited to, the *Dermasil Treatment Set*, UPC # 8 34576 00796 /1 manufactured, sold or distributed for sale in California by IAC (“Products”).

1.4 Notice of Violation

On or about March 13, 2015, Vinocur served IAC, and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that IAC violated Proposition 65 when it failed to warn its customers and consumers in California that its vinyl/PVC toiletry bags expose 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

IAC denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has manufactured, distributed or sold 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 IAC 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 IAC of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by IAC. However, this Section shall not diminish or otherwise affect IAC'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 November 11, 2015.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Commitment

On or before March 30, 2016, and continuing thereafter, IAC agrees to only manufacture for sale or purchase for sale, or otherwise sell in California, "Reformulated Products." For purposes of this Settlement Agreement, "Reformulated Products" are Products containing DEHP in concentrations of less than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C, CPSC-WH-C1001-09.3, or other methodology utilized by federal or state government agencies for the purpose of determining DEHP content in a solid substance.

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, IAC agrees to pay \$20,000 in civil penalties. Each penalty payment will be allocated by Vinocur 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 retained by Vinocur, as follows:

3.1.1 Initial Civil Penalty. On or before the Effective Date, IAC shall pay an initial civil penalty in the amount of \$6,000 in one check made payable to “Laurence Vinocur, Client Trust Account.”

3.1.2 Final Civil Penalty. On or before January 11, 2016, IAC shall pay a final civil penalty of \$14,000.00 in one check made payable to “Laurence Vinocur, Client Trust Account.” The final civil penalty shall be waived in its entirety, however, if, no later than December 15, 2015, an officer of IAC provides Vinocur’s counsel with written certification that, as of December 1, 2015, all Products shipped, sold or distributed by IAC, for sale in California, are Reformulated Products, and that IAC will thereafter continue in the future to ship, sell, or distribute for sale in California only those Products that qualify as Reformulated Products. The option to provide a written certification of expedited reformulation in lieu of making the final civil penalty payment required by this Section is a material term, and time is of the essence. IAC shall deliver its certificate, if any, to Vinocur’s counsel at the address provided in Section 3.3, below. In the event that IAC does not timely certify to its compliance or make the final civil penalty payment required by this Section, Vinocur may seek relief under any available legal remedy. If successful, the Parties further agree that Vinocur shall be entitled to his reasonable attorneys’ fees and costs pursuant to general contract principles and Code of Civil Procedure § 1021.5.

3.2 Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to Vinocur and his 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, IAC agrees to pay \$37,000 to Vinocur and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of IAC’s management, and negotiating a settlement in the public interest. IAC’s payment shall be due in two payments. On or before the Effective Date,

\$26,000 in the form of a check payable to “The Chanler Group,” and on or before December 10, 2015, \$11,000 in the form of a check payable to the “The Chanler Group.”

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 Vinocur’s Release of IAC

This Settlement Agreement is a full, final and binding resolution between Vinocur, as an individual and not on behalf of the public, and IAC, of any violation of Proposition 65 that was or could have been asserted by Vinocur, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees (collectively, the “Releasers”), and Releasers hereby release any such claims, against IAC, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom IAC directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers (including Ross Stores, Inc., who is a party to a lawsuit, arising out of this matter, in Alameda County Superior Court, and to which this release shall specifically apply), franchisees, cooperative members, licensors, and licensees (collectively, the “Releasees”), based on the failure to warn about alleged exposures to any DEHP contained in Products manufactured, distributed, sold or offered for sale by IAC in California before the date that this Settlement Agreement is fully executed by the Parties. IAC and Vinocur in his individual capacity only, agree that compliance by IAC with the terms of this Settlement Agreement shall constitute compliance with respect to any DEHP contained in the Products. Vinocur further agrees to dismiss the action pending in Alameda Superior Court styled *Vinocur v. Ross Stores, Inc.* Case No. RG15777968, with prejudice, upon receipt of the initial civil penalty.

In further consideration of the promises and agreements herein contained, Vinocur, on his own behalf and not on behalf of the public, and on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees, hereby covenants not to sue and waives any right to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have against Releasees, 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 arising under Proposition 65 with respect to DEHP contained in the Products manufactured, distributed, sold and/or offered for sale by IAC before the date that this Settlement Agreement is fully executed by the Parties. IAC and Vinocur, in his individual capacity only and not in his representative capacity, agree that compliance by IAC with the terms of this Settlement Agreement shall constitute compliance with respect to any DEHP contained in the Products.

4.2 IAC's Release of Vinocur

IAC, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Vinocur and his attorneys and other representatives, for any and all actions taken or statements made by Vinocur 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 otherwise rendered inapplicable by reason of law generally, as to IAC specifically as a result of a

statutory exemption, or as to the Products, then IAC may provide written notice to Vinocur of any asserted change in the law, or its applicability to IAC or the Products, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, IAC or 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:

IAC

Paul Silberfarb
Vice President
Inter American Cosmetics, Inc.
300-3 Route 17 South Suite 3
Lodi, NJ 07644

Copy to:
Jeffery Margulies
Norton Rose Fulbright US LLP
555 South Flower St.
41st Floor
Los Angeles, CA 90071

Vinocur

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

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)

Vinocur and his 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. 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: 11/3/15 _____

Date: _____

By:  _____
LAURENCE VINO CUR

By: _____
Inter American Cosmetics, Inc.

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: _____

Date: 11-06-2015

By: _____

By:  _____

LAURENCE VINO CUR

Inter American Cosmetics, Inc.