

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Laurence Vinocur and Peter Pauper Press, Inc.

This Settlement Agreement (Settlement Agreement) is entered into by and between Laurence Vinocur (Vinocur) and Peter Pauper Press, Inc. (Peter Pauper) with Vinocur and Peter Pauper collectively referred to as the “Parties” and each a “Party.” Vinocur 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. Peter Pauper 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 §§ 25249.5 *et seq.* (Proposition 65).

1.2 General Allegations

Vinocur alleges that Peter Pauper manufactures, imports, sells and/or distributes for sale in California, vinyl wall decals that contain di(2-ethylhexyl)phthalate (DEHP), and that it does so without providing the warning that Vinocur 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 and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are vinyl wall decals containing DEHP including, but not limited to, the *Chalkboard Wall Decal, Product Code: 0384; 091417-0384, ISBN# 978-1-4413-2038-4*, manufactured, imported, or purchased for resale by Peter Pauper and distributed, sold and/or offered for sale in the State of California, hereinafter the “Products.”

1.4 Notice of Violation

On or about November 28, 2018, Vinocur served Peter Pauper and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice), alleging that Peter

Pauper violated Proposition 65 when it failed to warn its customers and consumers in California that the Products 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

Peter Pauper denies the material, factual and legal allegations contained in the Notice and maintains that all products that it has sold and distributed in California, including the Products, have been and are in compliance with Proposition 65 and all other laws. Nothing in this Settlement Agreement shall be construed as an admission by Peter Pauper 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 Peter Pauper of any fact, finding, conclusion, 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 the date the Settlement Agreement is fully executed.

2. REFORMULATION

2.1 Peter Pauper's Duties

Commencing on the Effective Date and continuing thereafter, any Products that Peter Pauper manufactures for sale, imports for sale, or purchases for resale, and which are thereafter distributed for sale in California or sold in California shall qualify as Reformulated Products as defined by Section 2.2.

2.2 Reformulation Standards

"Reformulated Products" are Products containing DEHP, butyl benzyl phthalate ("BBP"), di-n-butyl phthalate ("DBP"), di-isodecyl phthalate ("DIDP"), diisononyl phthalate ("DINP"), and di-n-hexyl phthalate ("DnHP") each in concentrations of less than 0.1 percent (1,000 parts per million) in each accessible component when analyzed by a laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization.

For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission (CPSC) methodology CPSC-CH-C1001.09.3 or U.S. Environmental Protection Agency (EPA) testing methodologies 3580A and analyzed using EPA methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health and Safety Code § 25249.7(b), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Peter Pauper agrees to pay a total of \$4,500 in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code § 25249.12(c)(1) and (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (OEHHA) and the remaining 25% of the penalty amount retained by Vinocur. Peter Pauper shall deliver its civil penalty payment within five (5) business days after the Effective Date in two checks made payable as follows: (a) "OEHHA" in the amount of \$3,375; and (b) "Laurence Vinocur, Client Trust Account" in the amount of \$1,125. Vinocur's counsel shall send OEHHA's portion of the penalties paid by Peter Pauper to OEHHA.

3.2 Reimbursement of Attorneys' Fees and Costs

The Parties acknowledge that Vinocur 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, Peter Pauper expressed a desire to resolve Vinocur's fees and costs. The Parties then negotiated a resolution of the compensation due to Vinocur and his 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, Peter Pauper shall reimburse Vinocur and his counsel \$21,500. Peter Pauper will deliver its payment to the address in Section 3.3 by overnight

courier, with a tracking number, such that payment is received by plaintiff's counsel within five (5) business days after the Effective Date, in the form of a check payable to "The Chanler Group." The reimbursement shall cover all fees and costs incurred by Vinocur investigating, bringing this matter to Peter Pauper's attention and negotiating a settlement of the matter.

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 Peter Pauper

This Settlement Agreement is a full, final and binding resolution between Vinocur, as an individual and *not* on behalf of the public, and Peter Pauper, of any violation of Proposition 65 that was or could have been asserted by Vinocur on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Peter Pauper, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Peter Pauper directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, and the successors and assigns of any of them (collectively, Releasees), based on their failure to warn about alleged exposures to any DEHP contained in the Products that were manufactured, distributed, sold and/or offered for sale by Peter Pauper in California before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, Vinocur as an individual and *not* on behalf of the public, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of Vinocur's rights to

institute or participate in, directly or indirectly, any form of legal action and releases all claims that Vinocur 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 exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to any DEHP, BBP, DBP, DIDP, DINP, and DnHP in the Products, as alleged in the Notice, manufactured, distributed, sold and/or offered for sale by Peter Pauper, before the Effective Date (collectively, Claims), against Peter Pauper and Releasees. The Parties further agree that Peter Pauper's compliance with the terms of this Settlement Agreement shall constitute compliance with Proposition 65 with respect to any DEHP, BBP, DBP, DIDP, DINP, and DnHP in the Products.

The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any upstream suppliers that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Peter Pauper. Nothing in this Section affects Vinocur's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Peter Pauper's Products.

4.2 Peter Pauper's Release of Vinocur

Peter Pauper, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Vinocur and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Vinocur 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.

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 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 Peter Pauper shall provide written notice to Vinocur 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. Nothing in this Settlement Agreement shall be interpreted to relieve Peter Pauper 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: (a) personally delivered; (b) sent by first-class (registered or certified mail) return receipt requested; or (c) sent by overnight courier, to one Party by the other Party at the following addresses:

For Peter Pauper:

Laurence Beilenson, CEO
Peter Pauper Press, Inc.
202 Mamaroneck Avenue
White Plains, NY 10601

With a Copy to:

Sarah Esmaili, Esq.
Arnold & Porter
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111

For Vinocur:

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 § 25249.7(f)

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

10. MODIFICATION

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

11. AUTHORIZATION

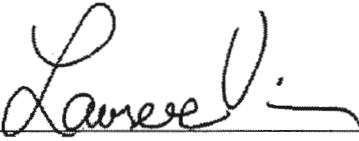
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.

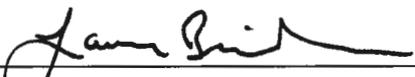
AGREED TO:

AGREED TO:

Date: 2/19/2019

Date: 2/21/2019

By: 
Laurence Vinocur

By: 
Laurence Beilenson, CEO
Peter Pauper Press, Inc.