

## SETTLEMENT AGREEMENT

### 1. INTRODUCTION

#### 1.1 Parties

This Settlement Agreement is entered into by and between Paul Wozniak (“Wozniak”) and A. L. Schutzman Company, Inc. (“Schutzman”), with Wozniak and Schutzman each individually referred to as a “Party,” and collectively as the “Parties.” Wozniak 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. Wozniak alleges that Schutzman 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

Wozniak alleges that Schutzman manufactures, sells, and/or distributes for sale in California, glass jars with exterior designs containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Wozniak alleges that Schutzman failed to provide the required Proposition 65 warning for exposures to lead from the exterior designs on its glass jar products.

#### 1.3 Product Description

The products that are covered by this Settlement Agreement are glass jars with exterior designs containing lead including, but not limited to, the *Mark Keathley The Grand Glass Jar*, UPC #0 79113 42200 9, manufactured, sold or distributed for sale in California by Schutzman (the “Products”).

#### 1.4 Notice of Violation

On or about December 22, 2014, Wozniak served Schutzman and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that Schutzman violated Proposition 65 when it failed to warn its customers in California that

its Products with exterior designs expose users to lead. 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**

Schutzman denies the material factual and legal allegations contained in the Notice and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws, and are completely safe for their intended use. Nothing in this Settlement Agreement shall be construed as an admission by Schutzman 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 Schutzman of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Schutzman. However, this Section shall not diminish or otherwise affect Schutzman' obligations, responsibilities, and duties under this Settlement Agreement.

### **1.6 Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean September 8, 2015.

## **2. INJUNCTIVE RELIEF: REFORMULATION & INTERIM WARNINGS**

### **2.1 Reformulation Commitment**

Commencing on the Effective Date and continuing thereafter, Schutzman shall only manufacture or import for sale in California, "Reformulated Products" or Products that: (a) contain no more than to 90 parts per million ("ppm") lead when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3050B and 6010B or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance; and (b) yield no more than 1.0 microgram ("ug") of lead when a wipe is applied to all surfaces according to NIOSH Test Method No. 9100.

3. **MONETARY SETTLEMENT TERMS**

**3.1 Civil Penalty Payments**

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this settlement Agreement, Schutzman agrees to pay \$2,600 in civil penalties. On or before the Effective Date, Schutzman shall make a civil penalty payment of \$2,600. It shall deliver its payment in single check made payable to "Paul Wozniak, Client Trust Account." The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) and (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 paid to Wozniak. Wozniak's counsel shall be responsible for delivering OEHHA's portion of any civil penalty payment made under this Settlement Agreement to OEHHA.

**3.2 Attorneys' Fees and Costs**

The Parties reached an accord on the compensation due to Wozniak and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, Schutzman agrees to pay \$23,925 to Wozniak and his counsel for any and all fees and costs incurred investigating, bringing this matter to the attention of Schutzman's management, and negotiating a settlement in the public interest. Schutzman's payment shall be due on or before the Effective Date, and delivered to the address in Section 3.3 in the form of a check payable to "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 Wozniak's Release of Schutzman**

This Settlement Agreement is a full, final and binding resolution between Wozniak as an individual and not on behalf of the public, and Schutzman, of any violation or alleged violation of Proposition 65 that was or could have been asserted by Wozniak, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees ("Releasors"), and Releasors hereby release any and all such claims against Schutzman, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Schutzman directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers (including, but not limited to Big Lots), franchisees, cooperative members, licensors, and licensees ("Releasees"), based on the failure to warn about actual or alleged exposures to lead contained in Products manufactured, imported, distributed, sold or offered for sale by Schutzman in California through the Effective Date of this Settlement Agreement. The penalties, reformulation commitment, warnings, and attorneys' fees paid by Schutzman in connection with this Settlement Agreement are intended to resolve all issues concerning any alleged violations of Proposition 65 concerning alleged lead in the Products. Releasors agree that compliance with the terms of this Settlement Agreement Constitutes compliance with Proposition 65 with respect to alleged lead in the Products.

In further consideration of the promises and agreements herein contained, Releasors hereby covenant not to sue and waive any right to institute or participate in, directly or indirectly, any form of legal action and releases all claims they may have, against Schutzman or the 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 limited to, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to lead or

alleged lead in Products manufactured, imported, distributed, sold and/or offered for sale by Schutzman through the Effective Date of this Settlement Agreement.

**4.2 Schutzman's Release of Wozniak**

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

**Schutzman**

Joel Knudson, C.F.O.  
A. L. Schutzman Company, Inc.  
N21W23560 Ridgeview Parkway  
Waukesha, WI 53188

Colleen E. Fielkow  
Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

**Wozniak**

Proposition 65 Coordinator  
The Chanler Group  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

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)**

Wozniak and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 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:**

Date: 9/3/2015

By:   
PAUL WOZNIAK

**AGREED TO:**

Date: September 8, 2015

By:   
JOEL KNUDSON, C.F.O.  
A.L. SCHUTZMAN COMPANY, INC.