

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Paul Wozniak (“Wozniak”) and Eze-Lap Diamond Products, Inc. (“Eze-Lap”), with Wozniak and Eze-Lap 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 Eze-Lap 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 Eze-Lap manufactures, sells, and/or distributes for sale in California, metal diamond sharpeners containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Wozniak alleges that Eze-Lap failed to provide the health hazard warning allegedly required by Proposition 65 for exposures to lead from its sharpeners.

1.3 Product Description

The products that are covered by this Settlement Agreement are metal diamond sharpeners containing lead including, but not limited to, the *Eze-Lap Diamond Sharpener, Model M, UPC #0 81819 19001 4* manufactured, sold or distributed for sale in California by Eze-Lap (“Products”).

1.4 Notice of Violation

On or about March 26, 2014, Wozniak served Eze-Lap and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that Eze-Lap violated Proposition 65 when it failed to warn its customers and consumers in

California that its sharpeners 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

Eze-Lap 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. Nothing in this Settlement Agreement shall be construed as an admission by Eze-Lap 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 Eze-Lap of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Eze-Lap. However, this Section shall not diminish or otherwise affect Eze-Lap'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 October 1, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION & INTERIM WARNINGS

2.1 Reformulation Commitment

Commencing within three (3) months after the Effective Date and continuing thereafter, Eze-Lap agrees to only manufacture for sale or purchase for sale in or into California, "Reformulated Products" or Products that are sold with a clear and reasonable warning pursuant to Section 2.2. For purposes of this Settlement Agreement, "Reformulated Products" are Products that contain no more than 90 parts per million lead content by weight in any component analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies used by state or federal agencies for purposes of determining lead content in a solid substance.

2.2 Clear and Reasonable Warnings for Non-Reformulated Products

Commencing within thirty (30) days of the after the Effective Date , for all Products other than Reformulated Products, Eze-Lap agrees that it will only sell or distribute such Products for sale in California with a clear and reasonable warning in accordance with this Section. Eze-Lap further agrees to affix the warning directly to the Product, or on Product packaging or labeling, if any. The warning shall be prominently placed with such conspicuousness when compared to 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. The warning shall further be provided in such a manner that the consumer or user understands to which *specific* Product the warning applies, so as to limit the risk of any consumer confusion.

A warning provided under this Settlement Agreement shall contain the following statement:

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

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, Eze-Lap agrees to pay \$ 12,000.00 in civil penalties. Each penalty payment will be allocated in accordance with California Health and Safety Code section 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 paid to Wozniak.

3.1.1 Initial Civil Penalty. As set forth in Section 3.3.3, below, Eze-Lap shall pay an initial civil penalty in the amount of \$4,000.00. Eze-Lap will provide its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the

amount of \$3,000.00; and (b) "Paul Wozniak, Client Trust Account" in the amount of \$1,000.00.

3.1.2 Final Civil Penalty. On or before March 1, 2015, Eze-Lap shall pay a final civil penalty of \$8,000.00 in accordance with the formula set forth in Paragraph 3.1.1 above. The final civil penalty shall be waived in its entirety, however, if, no later than February 15, 2015, an officer of Eze-Lap provides Wozniak's counsel with written certification that, as of the date of the certification, a statutory exemption applies or that all Products shipped, sold or distributed for sale in California comply with the injunctive requirements of Section 2, and that it will continue to comply with the reformulation and/or warning requirements of Section 2 in the future. The option to provide a written certification of reformulation or warning in lieu of making the final civil penalty payment required by this Section is a material term, and time is of the essence.

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, Eze-Lap agrees to pay \$25,500.00 to Wozniak and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of Eze-Lap's management, and negotiating a settlement in the public interest.

3.3 Payment Procedures

3.3.1 Payment Addresses. Payments shall be delivered as follows:

(a) All payments required for Wozniak and his counsel under this Settlement Agreement shall be delivered to:

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

(b) All payments required for OEHHA under this Settlement

Agreement shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one of the following addresses as appropriate:

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 Courier or Other Non-U.S. Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

3.3.2 Proof of Payment to OEHHA. Eze-Lap agrees to provide Wozniak with a copy of each penalty check sent to OEHHA, enclosed with Eze-Lap's penalty payment(s) to Wozniak, and delivered to the address provided in Section 3.3.1(a).

3.3.3 Payment Schedule. All payments under this Settlement Agreement shall be delivered according to the following schedule.

(a) within fifteen days of the date that this Settlement Agreement is fully executed by the Parties, Eze-Lap shall tender its initial civil penalty payments to OEHHA and Wozniak pursuant to Sections 3.1.1 and 3.3.1.

(b) Eze-Laps attorneys' fee and cost reimbursement required by Section 3.2 shall be paid in three equal installments of \$8,500 due on the first of each month October 1, 2014, December 1, 2014 and February 1, 2015

(c) In the event that any payment due under this Settlement Agreement is not received within fifteen (15) days of the date that it is due, any and all payments that have not been made by Eze-Lap at the time of its untimely payment shall be immediately due, owing, and tendered by Eze-Lap.

4. CLAIMS COVERED AND RELEASED

4.1 Wozniak's Release of Eze-Lap

This Settlement Agreement is a full, final and binding resolution between Wozniak and Eze-Lap, of any 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 ("Releasers"), and Releasers hereby release any such claims, against Eze-Lap, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Eze-Lap directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on the failure to warn about alleged exposures to lead contained in Products manufactured, distributed, sold or offered for sale by Eze-Lap in California before the date that this Settlement Agreement is fully executed by the Parties.

In further consideration of the promises and agreements herein contained, Wozniak, on his own behalf, 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, 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 Products manufactured, distributed, sold and/or offered for sale by Eze-Lap before the date that this Settlement Agreement is fully executed by the Parties.

4.2 Eze-Lap's Release of Wozniak

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

For Eze-Lap:

Jack Fletcher, President
Eze-Lap Diamond Products, Inc.
3572 Arrowhead Drive
Carson City, NV 89706

For Wozniak:

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

with copy to Eze-Lap's counsel:

Richard J. McNeil, Esq.
Snell & Wilmer L.L.P.
Plaza Tower
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

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:

AGREED TO:

Date: 10/9/2014

Date: _____

By: 
PAUL WOZNIAK

By: _____
Jack Fletcher, President
EZE-LAP DIAMOND PRODUCTS, INC.

with copy to Eze-Lap's counsel:

Richard J. McNeil, Esq.
Snell & Wilmer L.L.P.
Plaza Tower
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

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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: October 8, 2014

By: _____
PAUL WOZNIAK

By: Jack Fletcher
Jack Fletcher, President
EZE-LAP DIAMOND PRODUCTS, INC.