

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Paul Wozniak, Intruder, and Rice Lake

This Settlement Agreement (“Settlement Agreement”) is entered into by and between Paul Wozniak (“Wozniak” or “Plaintiff”), Intruder, Inc. (“Intruder”) and Rice Lake Weighing Systems, Inc. (“Rice Lake”). Intruder and Rice Lake are collectively referred to as the “Companies,” and Wozniak and the Companies are collectively referred to as the “Parties.” Wozniak 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. Plaintiff alleges that Intruder 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

Wozniak alleges that Intruder and Rice Lake manufacture, import, sell and/or distribute for sale in California, gloves that contain di(2-ethylhexyl)phthalate (DEHP), and that they do so without providing the warning that Wozniak alleges is required by Proposition 65. DEHP is a listed chemical pursuant to Proposition 65.

1.3 Product Description

The products that are covered by this Settlement Agreement are gloves containing DEHP including, but not limited to, the *Intruder Cut Resistant Glove, Model 15003*, *UPC #0 93932 15003 5*, manufactured, imported, or purchased for resale by Intruder and distributed, sold and/or offered for sale in the State of California by Intruder and/or Rice Lake, hereinafter the “Products.”

For purposes of this Settlement Agreement “Additional Products” are defined as the following products containing DEHP, and/or diisononyl phthalate (“DINP”), and/or di-n-butyl phthalate (“DBP”), and/or Butyl Benzyl phthalate (“BBP”), and/or Di-n-Hexyl phthalate

("DnHP"), and/or Di-isodecyl phthalate ("DIDP")(collectively, the "Listed Phthalates") : (i) Rice Lake weighing scales; and (ii) Rice Lake measuring tapes, including but not limited to the Rice Lake Pediatric Measuring Tape. Additional Products are released by Plaintiff in exchange for Rice Lake's commitment to apply the injunctive terms of this Settlement Agreement to the Additional Products.

1.4 Notice of Violation

On or about February 23, 2017, Wozniak served Intruder, Rice Lake, and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice), alleging that Intruder and Rice Lake violated Proposition 65 when they failed to provide a warning to their customers and consumers in California that the Products may 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

The Parties enter into this Settlement Agreement as a full and final settlement of all claims that were raised or that could have been raised in the Notice, and as to the Additional Products, arising out of the facts and/or conduct alleged in the Notice and this Settlement Agreement. The Companies deny the material, factual and legal allegations contained in the Notice and as to the Additional Products, and maintain that all products they have sold and distributed in California, including the Products and Additional 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 the Companies 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 the Companies of any fact, finding, conclusion, issue of law or violation of law, including that they have 10 or more employees. 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 May 17, 2019.

2. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS

2.1 Injunctive Relief

Commencing on the Effective Date and continuing thereafter, the Companies shall only manufacture for sale, import for sale, and purchase for resale in California Products and Additional Products that are Reformulated Products as defined by Section 2.2, or that contain a Proposition 65 warning as set forth in Section 2.3. Any Products and Additional Products that are not Reformulated Products, which the Companies sell, ship for sale, or distribute for sale to customers or consumers in California, or to customers that they reasonably believe distribute or sell such products in California, after the Effective Date, shall be labeled with a clear and reasonable warning as set forth in Sections 2.3 and 2.4. If, after the Effective Date, the Companies sell Products or Additional Products that are not Reformulated Products via mail order catalog and/or from their internet sites to customers located in California, the Companies shall also provide warnings for such Products and Additional Products as specified in Sections 2.4 through 2.6.

2.2 Reformulation Standards

“Reformulated Products” are Products and Additional Products containing Listed Phthalates 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 and analyzed using U.S. Environmental Protection Agency (EPA) methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

2.3 Clear and Reasonable Warnings

Sections 2.3-2.6 of this Settlement Agreement only apply to Products and Additional Products that are not Reformulated Products. Commencing on or before the Effective Date, the Companies shall provide clear and reasonable warnings for all Products and Additional Products that are not Reformulated Products that they provide for sale to customers in California in accordance with this Section pursuant to Title 27 California Code of Regulations § 25600, *et seq.* 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, and shall be provided in a manner such that it is clearly associated with the specific Product or Additional Product to which the warning applies.

(a) **Warning.** The warning shall consist of the following statement (Warning), language in brackets optional:

 [California Proposition 65] **WARNING:** This product can expose you to chemicals including DEHP, which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(b) **Short-Form Warning.** Alternatively, the Companies may, but are not required to, use the following short-form warning for sales of Products and Additional Products in California as set forth in this subsection 2.3(b) (“Short-Form Warning”), and subject to the additional requirements in Sections 2.5 and 2.6, as follows:

 [California Proposition 65] **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov

Language in brackets is optional.

(c) **Foreign Language Requirement.** Where a consumer product sign, label or shelf tag used to provide a warning includes “consumer information” (as defined in 27 Cal. Code of

Regs. § 25600(c)) in a language other than English, the warning must also be provided in that language in addition to English.

2.4 Product Warnings

The Companies shall affix a warning to the Product or Additional Product container, package, or label, or otherwise directly on each Product or Additional Product they provide for sale in retail outlets in California or sell via mail order catalog and/or the internet to customers located in California. For the purpose of this Settlement Agreement, “product label” means a display of written, printed or graphic material that is printed on or affixed to a Product or its immediate container, packaging, or wrapper. The entire warning shall appear in a type size of at least 6 point type and no smaller than the largest type size used for other warnings or instructions for use on the Product or Additional Product. The warning shall consist of either the Warning, or the Short-Form Warning described in subsection 2.3(a) or (b), respectively. Should the Proposition 65 warning regulations be amended, the Companies may conform the warnings required by this Settlement Agreement to the changes set forth in any such revised warning regulations.

2.5 Mail Order Catalog Warnings

In the event that, after the Effective Date, the Companies print new catalogs and sell Products or Additional Products via mail order through such catalogs to customers located in California, the Companies shall provide a warning for each Product and/or Additional Product both in accordance with Section 2.4, and in the catalog in a manner that clearly associates the warning with the *specific* Product and/or Additional Product being purchased. Any warning provided in a mail order catalog shall be in the same type size or larger than other consumer information provided for the Product and/or Additional Product within the catalog and shall be provided on the same page and in the same location as the display and/or description of the Product or Additional Product. The catalog warning may use the Short-Form Warning content described in Section 2.3(b) if the warning provided on the Product or Additional Product also uses the Short-Form Warning content.

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Product or Additional Product, the Companies may utilize a designated symbol to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front cover of the catalog or on the same page as any order form for the Product(s) or Additional Product(s):

▲ [California Proposition 65] **WARNING:** Certain products identified with this symbol ▼ can expose you to chemicals including Di(2-ethylhexyl)phthalate (DEHP), which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The designated symbol must appear on the same page and near the display and/or description of the Product or Additional Product. On each page where the designated symbol appears, the Companies must provide a header or footer directing the consumer to the warning language and definition of the designated symbol. For advertising catalogs which display Products or Additional Products from which a customer cannot order from the catalog but instead must purchase the product in some other manner, warnings shall be delivered by one of the other methods set forth in this Section 2.

2.6 Internet Warnings

If, after the Effective Date, the Companies sell Products and/or Additional Products via their internet site to customers located in California, the Companies shall provide warnings for each such Product or Additional Product both on the Product label, package, or container in accordance with Section 2.4, and by prominently displaying the warning to the customer prior to completing the purchase or during the purchase of the Products or Additional Products on their internet site without requiring customers to seek out the warning. The warning or a clearly marked hyperlink to the warning using the word(s) “[California Proposition 65] **WARNING**” (language in brackets optional) given in conjunction with the sale of the Products or Additional Products via the Companies’ internet site shall appear either: (a) on the same web page on which

the Product or Additional Product is displayed; (b) on the same web page as the order form for the Product or Additional Product; or (c) on one or more web pages displayed to a purchaser during the checkout process. The warning shall appear in any of the above instances adjacent to or immediately following the display or description of the Product or Additional Product for which it is given in the same type size or larger than the Product or Additional Product description text. The internet warning may use the Short-Form Warning content described in Section 2.3(b) if the warning provided on the Product or Additional Product label, packaging, or container also uses the Short-Form Warning content.

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, the Companies agree to pay a combined total of \$4,000 in civil penalties in complete resolution of any claim for damages, penalties, or any other form of monetary relief except for Plaintiff's attorney's fees and costs as set forth in Section 3.2 below. 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 Wozniak.

Intruder will deliver the civil penalty payment to the address in Section 3.3 by overnight courier, with a tracking number, such that payment is received by plaintiff's counsel on or before May 10, 2019. Intruder shall provide two checks made payable to: (a) "OEHHA" in the amount of \$3,000; and (b) "Paul Wozniak, Client Trust Account" in the amount of \$1,000. Thereafter, Wozniak's counsel shall have the sole responsibility for sending OEHHA's portion of the civil penalties paid by Intruder to OEHHA.

3.2 Reimbursement of Attorneys' Fees and Costs

The Parties acknowledge that Wozniak and his counsel offered to resolve this dispute without reaching terms on the amount of attorney's fees and expenses to be reimbursed to them,

thereby leaving the issue to be resolved after the material terms of the Settlement Agreement had been settled. Shortly after the other settlement terms had been finalized, the Companies expressed a desire to resolve Wozniak's alleged attorney's fees and costs. The Parties then negotiated a resolution of the compensation due to Wozniak's 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 Settlement Agreement, including but not limited to Plaintiff's attorney's fees, investigative costs, testing costs, expert costs, and expenses for any other work of any kind, the Companies shall reimburse Wozniak's counsel \$23,800. Intruder will deliver this payment to the address in Section 3.3 by overnight courier, with a tracking number, such that payment is received by plaintiff's counsel on or before May 10, 2019, in the form of a check payable to "The Chanler Group." The reimbursement shall cover all attorney's fees and expenses of any other kind incurred by Wozniak investigating, bringing this matter to the Companies' attention, and negotiating a settlement of this 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
2550 Ninth Street, Suite 205
Berkeley, CA 94710

4. CLAIMS COVERED AND RELEASED

4.1 Wozniak's Release of the Companies

This Settlement Agreement is a full, final and binding resolution between Wozniak, as an individual and *not* on behalf of the public, and the Companies, of any violation of Proposition 65 that was or could have been asserted by Wozniak on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against the Companies, their subsidiaries, affiliated entities under common ownership, directors, officers, employees,

attorneys, and each entity to whom they directly or indirectly distribute or sell the Products or Additional Products, including but not limited to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, Releasees), based on their failure to warn about alleged exposures to DEHP contained in the Products as alleged in the Notice, and the Additional Products, that were manufactured, distributed, sold and/or offered for sale by the Companies in California before the Effective Date. The Companies compliance with the terms of this Agreement constitutes compliance with Proposition 65 and its current regulations with respect to alleged DEHP in the Products and Additional Products.

In further consideration of the promises and agreements herein contained, Wozniak 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 Wozniak's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Wozniak 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 DEHP in the Products, as alleged in the Notice, and the Additional Products, manufactured, distributed, sold and/or offered for sale by the Companies, before the Effective Date (collectively, Claims), against the Companies and the Releasees.

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

4.2 The Companies' Release of Wozniak

The Companies, on behalf of themselves, their past and current agents, representatives, attorneys, successors, and assignees, hereby waive 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 or otherwise seeking to enforce Proposition 65 against the Companies in this matter with respect to the Products, or as to the Additional Products.

4.3 Mutual Release of Known and Unknown Claims

Wozniak, on behalf of himself and his agents, attorneys, representatives, successors, and assigns, in his respective individual capacity only and not in his representative capacity, and the Companies, each provide a general release of the other including the Releasees herein which shall be effective as a full and final accord and satisfaction, as a bar to all claims of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of actual or alleged violations of Proposition 65 with respect to the Products or the Additional Products. Wozniak and the Companies acknowledge that they are each familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties, each on their own behalf (and Wozniak in his individual capacity only and *not* in any representative capacity), and on behalf of their past and current agents, representatives, counsel, successors, and/or assignees, expressly waive and relinquish any and all rights and benefits that they may have under, or that 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.

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 only 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 are no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products or Additional Products, then the Companies shall provide written notice to Wozniak 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 or Additional Products are so affected. Nothing in this Settlement Agreement shall be interpreted to relieve the Companies 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 Intruder:

President
Intruder, Inc.
230 West Coleman Street
Rice Lake, WI 56848

With a Copy to:

James Robert Maxwell, Esq.
Rogers Joseph O'Donnell, PC.
311 California Street
San Francisco, CA 94104

For Rice Lake:

President
Rice Lake Weighing Systems, Inc.
230 West Coleman Street
Rice Lake, WI 56848

With a Copy to:

James Robert Maxwell, Esq.
Rogers Joseph O'Donnell, PC.
311 California Street
San Francisco, CA 94104

For Wozniak:

Proposition 65 Coordinator
The Chanler Group
2550 Ninth Street, Suite 205
Berkeley, CA 94710

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. JOINT PREPARATION

The Parties have jointly participated in the preparation of this Settlement Agreement and this Settlement Agreement is the result of the joint efforts of the Parties. Accordingly, any uncertainty or ambiguity existing in this Settlement Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Settlement Agreement. Each Party to this Settlement Agreement agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Settlement Agreement and, in this regard, the Parties hereby waive California Civil Code § 1654.

9. 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.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

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

11. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Settlement Agreement have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

12. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties. Before any Party may take action to enforce the terms of this Settlement Agreement for alleged breach, that Party must give the other Party written notice and a good faith opportunity to respond. The Parties must thereafter meet and confer for a period of no less than 30 days to try to resolve any alleged violation. If the alleged violation cannot be resolved, the Party alleging a violation may thereafter move to enforce the terms of this Settlement Agreement.

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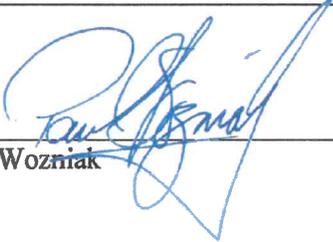
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13. **AUTHORIZATION**

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

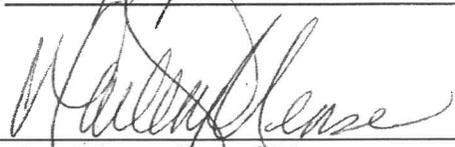
AGREED TO:

Date: 5/7/2019

By: 
Paul Wozniak

AGREED TO:

Date: 5/7/2019

By: 
Darlene Mense, General Manager
Intruder, Inc.

AGREED TO:

Date: 5/7/2019

By: 
Nick Peterson, CFO
Rice Lake Weighing Systems, Inc.