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FILED

SEP - 7 2011

KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: C. Lucchesi, Deput

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MARIN
10 UNLIMITED CIVIL JURISDICTION

11 ANTHONY E. HELD, PH.D., P.E.,)

12 Plaintiff,)

13 v.)

14 ALMAR SALES CO., INC.; and DOES 1-)
15 150, inclusive,)

16 Defendants.)

Case No. CIV 1104456

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Cal. Health & Safety Code § 25249.6 et seq.)

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BY FAX

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff ANTHONY E.
3 HELD, PH.D., P.E., in the public interest of the citizens of the State of California, to enforce the
4 People’s right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic
5 chemical found in cosmetic cases/bags sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendant’s continuing failure to warn
7 California citizens about their exposure to DEHP, present in or on certain cosmetic cases/bags
8 that defendant manufactures, imports, distributes, and/or offers for sale to consumers throughout
9 the State of California.

10 3. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
11 California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), “No person in the course
12 of doing business shall knowingly and intentionally expose any individual to a chemical known
13 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable
14 warning to such individual....” (*Cal. Health & Safety Code § 25249.6.*)

15 4. On October 24, 2003, California identified and listed DEHP as a chemical known
16 to cause birth defects and other reproductive harm. DEHP became subject to the warning
17 requirement one year later and was, therefore, subject to the “clear and reasonable warning”
18 requirements of Proposition 65, beginning on October 24, 2004. (*27 CCR § 27001 (c); Cal.*
19 *Health & Safety Code § 25249.8.*)

20 5. Defendant ALMAR SALES CO., INC. (“ALMAR” or “Defendant”) manufactures,
21 imports, distributes, and/or sells cosmetic cases/bags containing DEHP including, but not limited
22 to, *Expressions Girl Sleepover Party Pouch, #GG10081, JC-1008-3275 (#0 24576 74157 0).*

23 6. All such cosmetic cases/bags containing DEHP, shall hereinafter be collectively
24 referred to as the “Products”.

1 28. DEFENDANTS have engaged in the manufacture, importation, distribution, and/or
2 offering of the Products for sale or use in violation of California Health & Safety Code § 25249.6
3 and DEFENDANTS' manufacture, importation, distribution, and/or offering of the Products for
4 sale or use in violation of California Health & Safety Code § 25249.6 has continued to occur
5 beyond ALMAR's receipt of plaintiff's Notice. Plaintiff further alleges and believes that such
6 violations will continue to occur into the future.

7 29. After receipt of the claims asserted in the Notice, the appropriate public
8 enforcement agencies have failed to commence and diligently prosecute a cause of action against
9 DEFENDANTS under Proposition 65.

10 30. The Products manufactured, imported, distributed, and/or offered for sale or use in
11 California by DEFENDANTS contained DEHP above the allowable state limits.

12 31. DEFENDANTS knew or should have known that the Products manufactured,
13 imported, distributed, and/or offered for sale or use by DEFENDANTS in California contained
14 DEHP.

15 32. DEHP was present in or on the Products in such a way as to expose individuals to
16 DEHP through dermal contact and ingestion during the reasonably foreseeable use of the
17 Products.

18 33. The normal and reasonably foreseeable use of the Products has caused and
19 continues to cause consumer and workplace exposures to DEHP, as such exposure is defined by
20 27 California Code of Regulations ("CCR") § 25602(b).

21 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of
22 the Products would expose individuals to DEHP through dermal contact and ingestion.

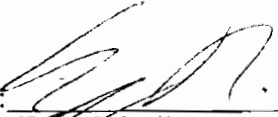
23 35. DEFENDANTS intended that such exposures to DEHP from the reasonably
24 foreseeable use of the Products would occur by their deliberate, non-accidental participation in
25 the manufacture, importation, distribution, and/or offer for sale or use of Products to individuals
26 in the State of California.

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- 3. That the Court grant Plaintiff his reasonable attorneys' fees and costs of suit; and
- 4. That the Court grant such other and further relief as may be just and proper.

Dated: August 29, 2011

Respectfully Submitted,
THE CHANLER GROUP

By: 
Troy C. Bailey
Attorneys for Plaintiff
ANTHONY E. HELD, PH.D., P.E.