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FILED

JUN 21 2017

JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: E. Chais, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF MARIN

10 UNLIMITED CIVIL JURISDICTION  
11

12 PETER ENGLANDER,

13 Plaintiff,

14 v.

15 STAEDTLER-MARS LIMITED,

16 Defendant.  
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Case No.

CW 1702264

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.5 *et seq.*)

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1 warning” requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
2 § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

3 8. Significant levels of DEHP and DINP have been discovered in or on vinyl/PVC cutting  
4 mats that are manufactured, distributed, shipped and/or sold by defendant.

5 9. Examples of vinyl/PVC cutting mats containing DEHP and DINP that are  
6 manufactured, distributed, shipped and/or sold by defendant are the *Staedtler Cutting Mats, #995T*  
7 *00, UPC #0 31901 92731 8..*

8 10. All such on vinyl/PVC cutting mats identified in paragraphs 8 and 9 above, shall  
9 hereinafter be collectively referred to as the “PRODUCTS.”

10 11. Defendant’s failure to warn consumers and other individuals in the State of California  
11 of the health hazards associated with exposures to DEHP and DINP in conjunction with defendant’s  
12 sales of the PRODUCTS are violations of Proposition 65, and subject defendant to enjoinder of  
13 such conduct as well as civil penalties for each violation. Health & Safety Code § 25249.7(a) &  
14 (b)(1).

15 12. For defendant’s violations of Proposition 65, plaintiff seeks preliminary and permanent  
16 injunctive relief to compel defendant to provide purchasers or users of the PRODUCTS with the  
17 required warning regarding the health hazards associated with exposures to DEHP and/or DINP.  
18 Health & Safety Code § 25249.7(a).

19 13. Pursuant to Health and Safety Code § 25249.7(b), plaintiff also seeks civil penalties  
20 against defendant for its violations of Proposition 65.

### 21 PARTIES

22 14. Plaintiff PETER ENGLANDER is a citizen of the State of California who is dedicated  
23 to protecting the health of California citizens through the elimination or reduction of toxic exposures  
24 from consumer products; and he brings this action in the public interest pursuant to Health and  
25 Safety Code § 25249.7(d).

26 15. Defendant STAEDTLER-MARS LIMITED is a person in the course of doing business  
27 within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
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16. STAEDTLER-MARS LIMITED manufactures, distributes, ships, sells and/or offers the PRODUCTS for sale or use in the State of California, or implies by its conduct that it manufactures, distributes, ships, sells and/or offers the PRODUCTS for sale or use in the State of California.

17. STAEDTLER-MARS LIMITED shall, where appropriate, be referred to herein as “DEFENDANT.”

### VENUE AND JURISDICTION

18. Venue is proper in Marin County Superior Court, pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because plaintiff seeks civil penalties against DEFENDANT, because one or more instances of wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANT conducted, and continue to conduct, business in Marin County with respect to the PRODUCTS.

19. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10, which grants the Superior Court “original jurisdiction in all causes except those given by statute to other trial courts.” The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

20. The California Superior Court has jurisdiction over DEFENDANT based on plaintiff's information and good faith belief that DEFENDANT is a person, firm, corporation or association that is a citizen of the State of California, has sufficient minimum contacts in the State of California, and/or otherwise purposefully avails itself of the California market. DEFENDANT'S purposeful availment renders the exercise of personal jurisdiction by California courts consistent with traditional notions of fair play and substantial justice.

### **FIRST CAUSE OF ACTION**

**(Violation of Proposition 65)**

21. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 20, inclusive.

22. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”

1           23. Proposition 65 states, “[n]o person in the course of doing business shall knowingly and  
2 intentionally expose any individual to a chemical known to the state to cause cancer or reproductive  
3 toxicity without first giving clear and reasonable warning to such individual . . .” Health & Safety  
4 Code § 25249.6.

5           24. On October 15, 2016, plaintiff served a sixty-day notice of violation, together with the  
6 requisite certificate of merit, on STAEDTLER-MARS LIMITED and certain public enforcement  
7 agencies alleging that, as a result of DEFENDANT’S sales of the PRODUCTS, purchasers and users  
8 in the State of California were being exposed to DEHP from their reasonably foreseeable use of the  
9 PRODUCTS, without the individual purchasers and users first having been provided with a “clear  
10 and reasonable warning” regarding the harms associated with such exposures, as required by  
11 Proposition 65 (the “Notice”).

12           25. On April 5, 2017, plaintiff served a supplemental sixty-day notice of violation, together  
13 with the requisite certificate of merit, on STAEDTLER-MARS LIMITED and certain public  
14 enforcement agencies alleging that, as a result of DEFENDANT’S sales of the PRODUCTS,  
15 purchasers and users in the State of California were being exposed to DEHP and DINP resulting  
16 from their reasonably foreseeable use of the PRODUCTS without the individual purchasers and  
17 users first having been provided with a “clear and reasonable warning” regarding the harms  
18 associated with such exposures, as required by Proposition 65 (the “Supplemental Notice”). The  
19 Notice and Supplemental Notice are collectively referred to hereinafter as the “Notices.”

20           26. DEFENDANT manufactures, distributes, ships, sells and offers the PRODUCTS for  
21 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANT’S violations  
22 continued beyond its receipt of plaintiff’s Notices. DEFENDANT’S violations are ongoing and  
23 continuous in nature, and, as such, will continue in the future.

24           27. After receiving plaintiff’s Notices, none of the appropriate public enforcement agencies  
25 have commenced and diligently prosecuted a cause of action against DEFENDANT under  
26 Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s notices of violation.

27           28. The PRODUCTS that DEFENDANT manufactures, distributes, ships, sells, and offers  
28 for sale or use in California cause exposures to DEHP and DINP as a result of the reasonably

1 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANT and endured by  
2 consumers and other individuals in California are not exempt from the “clear and reasonable”  
3 warning requirements of Proposition 65, yet DEFENDANT’S PRODUCTS continued to be sold  
4 without the requisite warning.

5 29. DEFENDANT knew or should have known that the PRODUCTS it manufactured,  
6 distributed, shipped, sold and offered for sale or use in California contained DEHP.

7 30. DEFENDANT knew or should have known that the that the PRODUCTS it  
8 manufactured, distributed, shipped, sold, and offered for sale or use in California contained DINP.

9 31. DEHP is present in or on the PRODUCTS in such a way as to expose individuals to  
10 DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

11 32. DINP is present in or on the PRODUCTS in such a way as to expose individuals to  
12 DINP through dermal contact and/or ingestion during reasonably foreseeable use.

13 33. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
14 continues to cause, consumer exposures to DEHP, as defined by title 27 of the California Code of  
15 Regulations, section 25602(b).

16 34. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
17 continues to cause, consumer exposures to DINP, as defined by title 27 of the California Code of  
18 Regulations, section 25602(b).

19 35. DEFENDANT had knowledge that the normal and reasonably foreseeable use of the  
20 PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.

21 36. DEFENDANT had knowledge that the normal and reasonably foreseeable use of the  
22 PRODUCTS exposed individuals to DINP through dermal contact and/or ingestion.

23 37. DEFENDANT intended that exposures to DEHP from the reasonably foreseeable use  
24 of the PRODUCTS would occur, by its deliberate, non-accidental participation in the manufacture,  
25 distribution, shipment, sale and offering of the PRODUCTS for sale or use to consumers and other  
26 individuals in California.

27 38. DEFENDANT intended that exposures to DINP from the reasonably foreseeable use of  
28 the PRODUCTS would occur, by its deliberate, non-accidental participation in the manufacture,

1 distribution, shipment, sale and offering of the PRODUCTS for sale or use to consumers and other  
2 individuals in California.

3 39. DEFENDANT failed to provide a “clear and reasonable warning” to those consumers  
4 and other individuals in California who were or who would become exposed to DEHP through  
5 dermal contact and/or ingestion resulting from their use of the PRODUCTS.

6 40. DEFENDANT failed to provide a “clear and reasonable warning” to those consumers  
7 and other individuals in California who were or who would become exposed to DINP through  
8 dermal contact and/or ingestion resulting from their use of the PRODUCTS.

9 41. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
10 directly by California voters, individuals exposed to DEHP and/or DINP through dermal contact  
11 and/or ingestion as a result of their use of the PRODUCTS that DEFENDANT manufactured,  
12 distributed, shipped, sold and offered for sale or use without a “clear and reasonable” health hazard  
13 warning, have suffered, and continue to suffer, irreparable harm for which they have no plain,  
14 speedy, or adequate remedy at law.

15 42. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-  
16 described acts, DEFENDANT is liable for a maximum civil penalty of \$2,500 per day for each  
17 violation.

18 43. As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)  
19 also specifically authorizes the Court to grant injunctive relief against DEFENDANT.

20 **PRAYER FOR RELIEF**

21 Wherefore, plaintiff prays for judgment against DEFENDANT as follows:

22 1. That the Court, pursuant to Health and Safety Code § 25249.7(b), assess civil penalties  
23 against DEFENDANT in the amount of \$2,500 per day for each violation;

24 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
25 permanently enjoin DEFENDANT from manufacturing, distributing, or offering the PRODUCTS  
26 for sale or use in California without first providing a “clear and reasonable warning” in accordance  
27 with title 27 of the California Code of Regulations, section 25601 *et seq.*, regarding the harms  
28 associated with exposures DEHP and DINP;

1           3.     That the Court, Pursuant to Health and Safety Code § 25249.7(a), issue preliminary  
2 and permanent injunctions mandating that DEFENDANT recall all PRODUCTS currently in the  
3 chain of commerce in California without a “clear and reasonable warning” as defined by California  
4 Code of Regulations title 27, section 25601 et seq.;

5           4.     That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

6           5.     That the Court grant such other and further relief as may be just and proper.

7     Dated: June 20, 2017

Respectfully Submitted,

8                   THE CHANLER GROUP

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11           By: \_\_\_\_\_  
12               Laralei Paras  
13               Attorneys for Plaintiff  
14               PETER ENGLANDER