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Attorney for Defendant
IGLOO PRODUCTS CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH, a non-profit corporation,

Plaintiff,

v.

IGLOO PRODUCTS CORPORATION, and Defendant DOES 1 through 200, inclusive,

Defendants.

CASE NO. CGC 05-444523

~~[PROPOSED]~~ CONSENT JUDGMENT

1. INTRODUCTION

1.1 On August 31, 2005, plaintiff the Center for Environmental Health ("CEH"), a non-profit corporation acting in the public interest, filed a complaint in San Francisco County Superior Court, entitled *Center for Environmental Health v. Igloo Products Corporation, et al.*, San Francisco County Superior Court Case Number 05-444523 (the "CEH Action"), for civil penalties and injunctive relief pursuant to the provisions of Cal. Health & Safety Code §25249.5 et seq. ("Proposition 65"). On June 6, 2006, the Court entered an order consolidating this case with other related cases filed by CEH. The consolidated case is denominated *Center for Environmental Health v. Ross Stores, et al.*, San Francisco County Superior Court Case Number 05-444522.

1.2 Defendant Igloo Products Corporation ("Defendant") is a corporation that employs 10 or more persons and manufactured, distributed and/or sold soft food and beverage containers in the State of California, such as lunchboxes and coolers, that may contain materials containing lead and/or lead compounds (the "Products"). The term "Products" encompasses only products designated for sale or distribution within the United States.

1.3 Beginning on or about May 19, 2005, CEH served Defendant and the appropriate public enforcement agencies with the requisite 60-day notice alleging that Defendant was in violation of Proposition 65. CEH's notice and the Complaint in this Action allege that Defendant exposes people who use or otherwise handle the Products to lead and/or lead compounds (referred to interchangeably herein as "Lead"), chemicals known to the State of California to cause cancer, birth defects and other reproductive harm, without first providing clear and reasonable warning to such persons regarding the carcinogenicity and reproductive toxicity of Lead. The notice and Complaint allege that Defendant's conduct violates Health & Safety Code §25249.6, the warning provision of Proposition 65.

1.4 For purposes of this Consent Judgment only, the parties stipulate that this Court has jurisdiction over the subject matter of the violations alleged in CEH's Complaint

and personal jurisdiction over Defendant as to the acts alleged in CEH's Complaint, that venue is proper in the County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised in the Complaint based on the facts alleged therein.

1.5 The Parties enter into this Consent Judgment pursuant to a settlement of certain disputed claims between the Parties as alleged in the Complaint. By executing this Consent Judgment, the Parties do not admit any facts or conclusions of law. It is the parties' intent that nothing in this Consent Judgment shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or any other or future legal proceedings.

2. COMPLIANCE - REFORMULATION

2.1 Level. Within 180 days of entry of this Consent Judgment (the "Compliance Date"), Defendants shall not manufacture, distribute, ship, or sell, in California or cause to be manufactured, distributed, or sold, in California any Product that is comprised of any interior lining material that contains Lead in concentrations that exceed 200 parts per million ("ppm") or of which the exterior of the Product contains Lead exceeding 600 ppm.

2.2 Certification of level from suppliers. Defendant shall obtain written certification from its suppliers of the Products certifying that neither the Products nor any materials of which the Products are comprised contain Lead concentrations exceeding the standards set forth in paragraph 2.1, above.

2.3 Testing. In order to ensure compliance with the requirements of Section 2.1, Defendant shall conduct (or cause to be conducted) testing to confirm that the Products contain Lead concentrations which satisfy the standards set forth in Section 2.1. At all times Defendant uses PVC for the interior lining of its Products, testing shall be

conducted in compliance with Section 2.3.1. All testing pursuant to this section shall be performed by an independent laboratory in accordance with the testing methodology and standards set forth in EPA Method 3050B for the interior lining and for any PVC material used in the exterior of the Product, and either EPA Method 3050B or ASTM F-963 for the exterior surface coating (the "Test Protocol"). At the request of CEH, the results of all testing performed pursuant to this section shall be made available to CEH on a confidential basis and shall be maintained as confidential by CEH, except that CEH may provide the information to its consultants or other experts solely for the purpose of evaluating compliance with the terms of this Consent Judgment.

2.3.1 Testing Where Interior Lining Contains PVC. For each of the first two shipments of Products purchased from Defendant's suppliers after the Compliance Date, Defendant shall randomly select and test the greater of 0.1% (one-tenth of one percent) or two, but in no case more than four units, of the total Products purchased from each supplier of the Products intended for sale in California. For purposes of this Agreement, a shipment is any order that contains 5,000 pieces or more, in which the lining is made from the same lot of raw materials. Following the first two orders, Defendant shall test the Products in accordance with Section 2.3.2.

2.3.2 Random Testing. Testing pursuant to this Section 2 shall be performed on randomly selected units in accordance with Defendant's usual testing practices. Defendant's usual testing practices include testing as required by its various retailers. At a minimum, during each of the first two calendar years following the Compliance Date, Defendant shall randomly select and test the greater of 0.1% (one-tenth of one percent) or two, but in no case more than four, of the total Products from each supplier of the Products intended for sale in California.

2.3.3 Products That Exceed Stipulated Levels Pursuant To Defendant's Testing. If the results of the testing required pursuant to Section 2.3 show levels of lead exceeding 200 ppm for the interior lining of a Product, 600 ppm for the exterior of a Product, Defendant shall: (1) not sale or distribute within the State of

California any of the Products that were purchased under the particular purchase order; (2) send a notice to the supplier explaining that such Products do not comply with the supplier's certification; and (3) apply the testing frequency set forth in 2.3 as though the next shipment from the supplier were the first one following the Compliance Date.

2.4 Confirmatory Testing By CEH. CEH intends to conduct periodic testing of the Products. Any such testing will be conducted by CEH at an independent laboratory, in accordance with the test protocol set forth in Exhibit A attached. In the event that CEH's testing demonstrates Lead levels in excess of the standards set forth in Section 2.3.1, for two or more Products, CEH shall inform Defendant of the test results, including information sufficient to permit Defendant to identify the Product(s). Defendant shall, within 30 days following such notice, provide CEH, at the address listed in section 12, with its supplier certification and testing information demonstrating its compliance with sections 2.2 and 2.3 of this Consent Judgment. Defendant shall then have the opportunity to conduct its own independent testing of the Products from the same lot to confirm or deny CEH's tests. If Defendant's independent testing confirms CEH's test results, Defendant shall apply the definition of representative sample set forth in section 2.3.1, above, in determining the number of units to be tested for the two shipments following the Product test exceeding 200 ppm (for the interior) or 600 ppm (for the exterior) from that supplier. In addition, if Defendant's independent testing verifies CEH's test results and Defendant fails to provide CEH with information demonstrating that it complied with Section 2.2 or 2.3 (as the case may be) for the particular shipment(s) at issue, Defendant shall also be liable for stipulated payments in lieu of penalties for Products for which CEH produces tests demonstrating Lead levels exceeding 200 ppm for the lining or 600 ppm for the exterior surfaces as set forth below. These payments shall be made to CEH and used for the purposes described in section 3.1

2.4.1 Stipulated Payments In Lieu of Penalties. If stipulated payments in lieu of penalties are warranted under section 2.4, the stipulated payment amount shall be as follows for each unit of Product for which CEH produces a test result with Lead

levels exceeding 200 ppm for the lining or 600 ppm for the exterior:

First Occurrence: $1,250

Second Occurrence: $1,500

Third Occurrence: $1,750

Thereafter: $2,500

Notwithstanding the foregoing, the maximum stipulated penalty amount in a calendar year, regardless of the number of units of Product tested by CEH with exceedances of the Lead levels set forth in this Consent Judgment, shall be $3,500.

2.5 Products in the stream of commerce. Defendant's Products that have been manufactured, shipped, sold, or that otherwise are in the stream of commerce prior to the Compliance Date shall be released from any claims that were brought or that could have been brought by CEH in its Complaint, as though they were Covered Claims within the meaning of Section 7.1, below, and shall also be released from any stipulated payments in lieu of penalties, as set forth in section 2.4.1, above .

2.6 Alternative Technology. Defendant, without obligation to discontinue the use of PVC lining, is evaluating the use of alternative materials, such as PEVA or a similar material which is PVC free, for the interior lining of its products. If Defendant decides to phase-out PVC lining from its Products manufactured, sold, and/or distributed in California, Defendant will notify CEH of its decision and its timetable for implementing the phase-out. After the phase-out is completed (assuming that the Phase-out occurs subsequent to the Compliance Date), Defendant will not be required to comply with the testing provisions set forth in paragraphs 2.3.2 through 2.3.3, above, for the interior lining.

3. SETTLEMENT PAYMENTS

3.1 Monetary Payment in Lieu of Penalty: Defendant shall pay twenty thousand dollars ($20,000) to CEH in lieu of any penalty pursuant to Health and Safety Code § 25249.7(b). CEH shall use such funds to continue its work protecting people from

exposures to toxic chemicals. As part of this work, CEH intends to conduct periodic testing of the Products as set forth in section 2.4.

3.2 Attorneys' Fees and Costs: Defendant shall pay forty thousand dollars ($40,000) to The Lexington Law Group, counsel for CEH, to reimburse The Lexington Law Group and CEH for their reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating, bringing this matter to Defendant's attention, litigating and negotiating a settlement in the public interest.

3.3 Timing of payments. The payments required under Sections 3.1 and 3.2, above, shall be delivered to the address set forth in Section 12, below, within 15 days of entry of this Consent Judgment by the Court.

4. MODIFICATION OF CONSENT JUDGMENT

4.1 This Consent Judgment may be modified by written agreement of CEH and Defendant, or upon motion of CEH or Defendant as provided by law.

4.2 CEH intends to enter into agreements with other entities that manufacture, distribute and/or sell Products. CEH will provide Defendant with a copy of any Consent Judgment involving soft food and beverage containers to which CEH is a party. Should Defendant determine that provisions of any such Consent Judgment with a similarly situated manufacturer or distributor of products are less stringent, Defendant may request a modification of this Consent Judgment to conform with the terms of the later entered Consent Judgment. Upon 30 days prior written notice of Defendant's request for a modification, CEH shall inform Defendant whether it will agree to such modification. If CEH does not agree, Defendant may move the Court for a modification pursuant to this section.

5. ENFORCEMENT OF CONSENT JUDGMENT

5.1 CEH may, by motion or application for an order to show cause before the Superior Court of the County of San Francisco, enforce the terms and conditions contained in this Consent Judgment. The prevailing party on any motion or application

under this section shall be entitled to its reasonable attorneys' fees and costs associated with such motion or application.

6. APPLICATION OF CONSENT JUDGMENT

6.1 This Consent Judgment shall apply to and be binding upon the parties hereto, their divisions, subdivisions and subsidiaries, and the successors or assigns of any of them.

7. CLAIMS COVERED

7.1 This Consent Judgment is a full, final and binding resolution between CEH and Defendant of any violation of Proposition 65 that was or could have been asserted in the Complaint against Defendant (including any claims that could be asserted in connection with any of the Products covered by this Consent Judgment) or its parents, subsidiaries, affiliates, directors, officers, employees, agents, attorneys, distributors, or customers (collectively, "Defendant Releasees") based on failure to warn about alleged exposure to Lead contained in the Products, with respect to any Products manufactured, distributed or sold by Defendant on or prior to the date of entry of this Consent Judgment. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 for the purposes of Lead exposures from the Products.

7.2 Further, CEH hereby releases all retailers, distributors, and licensors of Defendant's products from any claims related to the Notice, the Complaint, and this Judgment and CEH agrees to dismiss any such claims that it has asserted or could assert against any retailers, distributors, or licensors of Defendant's Products. If CEH has filed a complaint against a retailer, distributor, or licensor of Defendant's Products, then CEH shall within 10 days of entry of this Consent Judgment file a dismissal, with prejudice, as to those claims relating to Defendant's Products. CEH shall provide Defendant with a confirmed copy of the dismissal. CEH further agrees to provide Defendant with a letter substantially similar to the one attached hereto as Exhibit B, stating that it has released all of Defendant's distributors, retailers, and licensors from any liability relating to sales of Products manufactured and/or sold by Defendant. As to each of Defendant's retailers,

distributors, or licensors which have not been served with a 60-day notice or a complaint by CEH, CEH agrees not to serve a 60-day notice on said retailer, distributor, or licensor which includes within its scope, directly or indirectly, any of Defendant's Products. If CEH has served a 60-day notice letter on any retailer, distributor, or licensor of Defendant's Products, but not yet filed a complaint, then, CEH will not file a complaint against such retailer, distributor, or licensor that includes Defendant's Products. For purposes of the release provided in this Section 7.1, the term "retailer, distributor, and/or licensor" shall include their respective related entities, predecessors, successors, assigns, parents, subsidiaries, affiliates, officers, partners, directors, stockholders, shareholders, attorneys, representatives, agents and employees, past, present and future.

8. SEVERABILITY

8.1 In the event that any of the provisions of this Consent Judgment are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

9. SPECIFIC PERFORMANCE

9.1 The parties expressly recognize that Defendant's obligations under this Consent Judgment are unique. In the event that any Defendant is found to be in breach of this Consent Judgment for failure to comply with the provisions of Section 2 hereof, the parties agree that it would be extremely impracticable to measure the resulting damages and that such breach would cause irreparable damage. Accordingly, CEH, in addition to any other available rights or remedies, may sue in equity for specific performance, and Defendant expressly waive the defense that a remedy in damages will be adequate.

10. GOVERNING LAW

10.1 The terms of this Consent Judgment shall be governed by the laws of the State of California.

11. RETENTION OF JURISDICTION

11.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms this Consent Judgment.

12. PROVISION OF NOTICE

12.1 All notices required pursuant to this Consent Judgment and correspondence shall be sent to the following:

For CEH:

Mark N. Todzo
Lexington Law Group, LLP
1627 Irving Street
San Francisco, CA 94122

For Defendant:

Chris M. Amantea, Esq.
McDermott Will & Emery
2049 Century Park East, Suite 3400
Los Angeles, CA 90067-3208

13. COURT APPROVAL

13.1 CEH will comply with the settlement notice provisions of Section 25249.7(f) of the California Health and Safety Code and Section 3003 of Title 11 of the California Code of Regulations.

13.2 If this Consent Judgment is not approved by the Court, it shall be of no further force or effect. If this Consent Judgment is appealed, with the exception of the injunctive relief provisions in Section 2, above, which remain in effect during any appeal, it does not become effective and has no force or effect until all issues on appeal are resolved.

14. EXECUTION AND COUNTERPARTS

14.1 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile, which taken together shall be deemed to constitute one document.

15. AUTHORIZATION

15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the party represented and legally bind that party. The undersigned have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and costs.

AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH Dated: 6/29/2006

~~Michael Green~~, Executive Director
Center for Environmental Health

CHARLIE PIZZARO
IGLOO PRODUCTS CORPORATION Dated: _____

_____

_____
Printed Name

McDERMOTT WILL & EMERY LLP
ATTORNEYS AT LAW
LOS ANGELES

15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the party represented and legally bind that party. The undersigned have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and costs.

AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH Dated: _____

_____
Michael Green, Executive Director
Center for Environmental Health

IGLOO PRODUCTS CORPORATION Dated: 6-27-07

X _____
James Morley
Printed Name

McDERMOTT WILL & EMERY LLP
ATTORNEYS AT LAW
LOS ANGELES

ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between CEH and Igloo Products Corporation, the settlement is approved and judgment is hereby entered according to the terms herein.

Dated: 8-13-07

/s/ RICHARD A. KRAMER

Judge, Superior Court of the State of California

Exhibit A

(Test Methodology)

The following protocol shall be applied separately to the interior and exterior material of a finished Product.

1. Cut 5 small, discreet portions of the material to be analyzed.
2. Combine the portions into a composite sample.
3. Prepare the sample for analysis using microwave digestion. Microwave digestion protocols from the following two methods may be used provided that the samples are completely digested:
    a. AOAC Official Method 999.10 (Lead, Cadmium, Zinc, Copper, and Iron in Foods)
    b. NIOSH 7082 (Lead by Flame AAS) Appendix – Microwave Digestion for Lead in Paint Chips (and other matrices)
4. Analyze the sample for total Lead (Pb) content using Graphite Furnace Atomic Absorption Spectrophotometry (GFAAS) or Inductively Coupled Plasma Mass Spectrometry (ICP-MS) using standard operating procedures.
5. Lead content shall be expressed in parts per million (ppm).

Exhibit B

(Release Letter)

April __, 2007

Chris Amantea, Esq.
McDermott Will & Emery LLP
2049 Century Park East, Suite 3400
Los Angeles, CA 90067

Re: CEH v. Igloo Products Corporation, Case No. CGC-05-444523; Consolidated Case No. CGC-05-444522

Dear Mr. Amantea:

Pursuant to Section 7.2 of the consent judgment ("Consent Judgment") entered into in the above-referenced matter between the Center for Environmental Health ("CEH") and Igloo Products Corporation ("Igloo"), CEH hereby confirms that it has released all of Igloo's distributors, retailers, and licensors from any liability relating to sales of soft food and beverage containers such as lunch boxes, water bottles, coolers, and similar products manufactured and/or sold by Igloo ("Products") and from any claims related to or referenced in the 60-day Notice or the Consent Judgment (collectively, "Claims") and any 60-day notices issued to Igloo or any of its retailers, distributors or licensors. For purposes of the release contained in the Consent Judgment and this letter, the term "retailers, distributors, and licensors" shall include their respective related entities, predecessors, successors, assigns, parents, subsidiaries, affiliates, officers, partners, directors, stockholders, shareholders, attorneys, representatives, agents and employees, past, present and future.

This letter acts as a retraction of all 60-day notices related to Igloo's products in lieu of sending separate letters to each enforcement agency. If CEH has filed a complaint against any retailer, distributor, or licensor of Igloo's Products, then CEH shall within 10 days of the entry of the Consent Judgment file a dismissal, with prejudice, as to those Claims relating to Igloo's Products.

Sincerely,

_____

Mark N. Todzo, Esq. for
Center for Environmental Health