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Attorneys for Plaintiff  
ANTHONY E. HELD, Ph.D., P.E.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO  
UNLIMITED CIVIL JURISDICTION

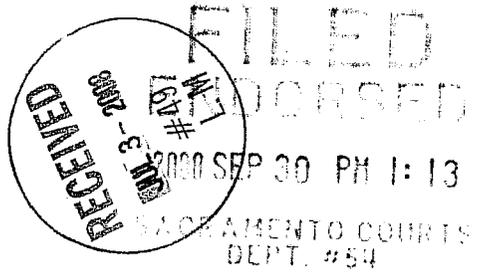
ANTHONY E. HELD, Ph.D., P.E.,  
Plaintiff,  
v.  
ADVANCE WATCH COMPANY, LTD., and  
DOES 1 through 150, inclusive,  
Defendants.

Case No. 07AS04690

**[PROPOSED] JUDGMENT PURSUANT  
TO TERMS OF STIPULATION AND  
ORDER RE: CONSENT JUDGMENT**

Date: August 18, 2008  
Time: 9:00 a.m.  
Dept.: 54  
Judge: Hon. Shelleyanne Chang

**BY FAX**



1 In the above-entitled action, Plaintiff ANTHONY E. HELD, Ph.D., P.E. and Defendant  
2 ADVANCE WATCH COMPANY, LTD., having agreed through their respective counsel that  
3 judgment be entered pursuant to the terms of the Proposition 65 settlement agreement in the form  
4 of a Stipulation and [Proposed] Order Re: Consent Judgment entered into by the parties, and after  
5 issuing an order approving this Proposition 65 settlement agreement and entering the Stipulation  
6 and Order Re: Consent Judgment on August 18, 2008.

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Code of Civil  
8 Procedure §664.5, judgment is entered in accordance with the terms of the Stipulation and Order  
9 Re: Consent Judgment attached hereto as **Exhibit 1** and lodged concurrently herewith.

10 **IT IS SO ORDERED.**

11 SEP 30 2008

12 Dated: \_\_\_\_\_

SHELLEYANNE W.L. CHANG

JUDGE OF THE SUPERIOR COURT

# **Exhibit 1**

1 Clifford A. Chanler, State Bar No. 135534  
David Lavine, State Bar No. 166744  
2 HIRST & CHANLER LLP  
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3 Parker Plaza, Suite 214  
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4 Telephone: (510) 848-8880  
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5 Attorneys for Plaintiff  
6 ANTHONY E. HELD, Ph.D., P.E.

7  
8 M. Elizabeth McDaniel, State Bar No. 114918  
Michelle J. Hirth, State Bar No. 200024  
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
9 A Limited Liability Partnership  
Including Professional Corporations  
10 Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4109  
11 Telephone: (415) 434-9100  
Facsimile: (415) 434-3947

12 Attorneys for Defendant  
13 ADVANCE WATCH COMPANY, LTD.  
dba GENEVA WATCH COMPANY, INC.  
14

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF SACRAMENTO  
17 UNLIMITED CIVIL JURISDICTION  
18

19 ANTHONY E. HELD, Ph.D., P.E.,

20 Plaintiff,

21 v.

22 ADVANCE WATCH COMPANY, LTD.,  
23 GENEVA WATCH COMPANY, INC., and  
DOES 1 through 150, inclusive,

24 Defendants.  
25

Case No. 07AS04690

STIPULATION AND [PROPOSED]  
ORDER RE: CONSENT JUDGMENT

1 **1. INTRODUCTION**

2 **1.1 Anthony E. Held, Ph.D., P.E., and Advance Watch Company, Ltd.**

3 This Consent Judgment is entered into by and between plaintiff Anthony E. Held, Ph.D.,  
4 P.E. ("Dr. Held" or "Plaintiff") and defendant Advance Watch Company, Ltd. dba Geneva Watch  
5 Company, Inc. ("Advance Watch" or "Defendant"), with Plaintiff and Defendant collectively  
6 referred to as the "Parties."

7 **1.2 Plaintiff**

8 Dr. Held is an individual residing in the State of California who seeks to promote  
9 awareness of exposure to toxic chemicals and improve human health by reducing or eliminating  
10 hazardous substances contained in consumer products.

11 **1.3 Defendant**

12 Advance Watch employs ten or more persons and is a person in the course of doing  
13 business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California  
14 Health & Safety Code §25249.6 *et seq.* (Proposition 65).

15 **1.4 General Allegations**

16 Dr. Held alleges that Advance Watch has been in the chain of distribution of toys or other  
17 children's products containing di(2-ethylhexyl)phthalate (hereinafter "DEHP") in the State of  
18 California without the requisite health hazard warnings. DEHP is known to cause birth defects  
19 and other reproductive harm and is listed by its chemical nomenclature pursuant to Proposition 65.  
20 DEHP is listed by the State of California under Proposition 65 and shall be referred to hereinafter  
21 as the "Listed Chemical".

22 **1.5 Product Description**

23 The products that are covered by this Consent Judgment are defined as follows: children's  
24 watches containing the plasticizer phthalate DEHP, such as the *Sesame Street LCD Watch*  
25 #878647 (#6 53899 60019 8), for which Advance Watch was in the chain of distribution in the  
26 State of California. All such children's watches containing DEHP are referred to hereinafter as the  
27 "Products".

28

1           **1.6 Notice of Violation**

2           On August 2, 2007, Dr. Held served Advance Watch and various public enforcement  
3 agencies with a document entitled "60-Day Notice of Violation" ("Notice") that provided Advance  
4 Watch and public enforcers with notice of alleged violations of California Health & Safety Code  
5 §25249.6 for failing to warn consumers that the Products exposed users in California to DEHP.

6           **1.7 Complaint**

7           On October 12, 2007, Dr. Held, who was and is acting in the interest of the general public  
8 in California, filed a complaint ("Complaint") in the Superior Court in and for the County of  
9 Sacramento against Advance Watch Company, Ltd. and Does 1 through 150, alleging violations  
10 of California Health & Safety Code §25249.6 based on the alleged exposures to DEHP contained  
11 in the Products.

12           **1.8 No Admission**

13           Advance Watch denies the material, factual, and legal allegations contained in Dr. Held's  
14 Notice and Complaint and maintains that all Products sold and distributed in California have been  
15 and are in compliance with all laws. Nothing in this Consent Judgment shall be construed as an  
16 admission by Advance Watch of any fact, finding, issue of law, or violation of law, nor shall  
17 compliance with this Consent Judgment constitute or be construed as an admission by Advance  
18 Watch of any fact, finding, conclusion, issue of law, or violation of law, such being specifically  
19 denied by Advance Watch. However, this Section shall not diminish or otherwise affect Advance  
20 Watch's obligations, responsibilities, and duties under this Consent Judgment.

21           **1.9 Consent to Jurisdiction**

22           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
23 jurisdiction over Advance Watch as to the allegations contained in the Complaint, that venue is  
24 proper in the County of Sacramento and that this Court has jurisdiction to enter and enforce the  
25 provisions of this Consent Judgment.

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1           **1.10    Effective Date**

2           For purposes of this Consent Judgment, the term "effective date" shall mean June 16,  
3 2008.

4           **2.       INJUNCTIVE RELIEF**

5           **2.1**     As of the effective date, Advance Watch represents that it is no longer involved in  
6 the chain of distribution of Products in the State of California, and agrees that it will not sell, ship,  
7 offer to be shipped for sale or be in the chain of distribution for sale in California of Products  
8 containing the Listed Chemical.

9           **3.       MONETARY PAYMENTS**

10           **3.1     Penalties Pursuant to Health & Safety Code §25249.7(b)**

11           In settlement of all the claims referred to in this Consent Judgment, Advance Watch shall  
12 pay \$8,000 in civil penalties to be apportioned in accordance with California Health & Safety  
13 Code §25192, with 75% of these funds remitted to the State of California's Office of  
14 Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty  
15 remitted to Anthony Held as provided by California Health & Safety Code §25249.12(d).  
16 Advance Watch shall issue two separate checks for the penalty payment: (a) one check made  
17 payable to "Hirst & Chanler LLP in Trust For OEHHA" in the amount of \$6,000, representing  
18 75% of the total penalty; and (b) one check to "Hirst & Chanler LLP in Trust for Anthony Held"  
19 in the amount of \$2,000, representing 25% of the total penalty. Two separate 1099s shall be  
20 issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-  
21 0284486); and (b) Anthony Held, whose information shall be provided five calendar days before  
22 the payment is due.

23           Payment shall be delivered on or before July 1, 2008, to Dr. Held's counsel at the  
24 following address:

25                   Hirst & Chanler LLP  
26                   Attn: Proposition 65 Controller  
27                   Capitol Mall Complex  
28                   455 Capitol Mall, Suite 605  
                      Sacramento, CA 95814

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**4. REIMBURSEMENT OF FEES AND COSTS**

**4.1 Attorney Fees and Costs**

The Parties acknowledge that Dr. Held and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Advance Watch then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Dr. Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure (CCP) §1021.5, for all work performed through the mutual execution of this agreement. Advance Watch shall reimburse Dr. Held and his counsel a total of \$28,000 for fees and costs incurred as a result of investigating, bringing this matter to Advance Watch’s attention, and litigating and negotiating a settlement in the public interest. Advance Watch shall issue a separate 1099 for fees and costs (EIN: 20-3929984) and shall make the check payable to “Hirst & Chanler LLP” and shall be delivered on or before July 1, 2008 to the following address:

Hirst & Chanler LLP  
Attn: Proposition 65 Controller  
Capitol Mall Complex  
455 Capitol Mall, Suite 605  
Sacramento, CA 95814

**4.2 Additional Attorney Fees and Costs in Seeking Judicial Approval**

Pursuant to CCP §§1021 and 1021.5, the Parties agree that Advance Watch will reimburse Dr. Held and his counsel for their reasonable fees and costs incurred in seeking judicial approval of this settlement agreement in the trial court, in an amount not to exceed \$4,250. Such additional fees and costs, exclusive of fees and costs that may be incurred in the event of an appeal include, but are not limited to, drafting and filing of the motion to approve papers, fulfilling the reporting

1 requirements referenced in Health & Safety Code §25249.7(f), corresponding with opposing  
2 counsel responding to any third party objections and appearing before the Court related to the  
3 approval process.

4 Reimbursement of such additional fees and costs shall be due within ten days after receipt  
5 of a billing statement from Dr. Held ("Additional Fee Claim"). Payment of the Additional Fee  
6 Claim shall be made to "Hirst & Chanler LLP," and the payment shall be delivered, at the  
7 following address:

8  
9 Hirst & Chanler LLP  
10 Attn: Proposition 65 Controller  
11 Capitol Mall Complex  
12 455 Capitol Mall, Suite 605  
13 Sacramento, CA 95814

14 Advance Watch has the right to object to such reimbursement and may submit the  
15 resolution of this issue to the American Arbitration Association (AAA) in Northern California to  
16 determine the reasonableness of the additional fees and costs sought, provided that a notice of  
17 objection or decision to arbitrate is received by Dr. Held by the end of the ten calendar days. If an  
18 arbitration notice is not filed with AAA in a timely manner, Dr. Held may file a motion with the  
19 Court pursuant to both CCP §1021.5 and this settlement agreement to recover additional attorney  
20 fees and costs incurred as set forth in this paragraph. In the event Advance Watch submits the  
21 matter to arbitration, Dr. Held may seek, pursuant to CCP §1021.5, reasonable attorney fees and  
22 costs incurred for the arbitration.

23 **5. RELEASE OF ALL CLAIMS**

24 **5.1 Dr. Held's Release of Advance Watch**

25 In further consideration of the promises and agreements herein contained, and for the  
26 payments to be made pursuant to Sections 3 and 4 of this Consent Judgment, Dr. Held on behalf of  
27 himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and in  
28 the interest of the general public, hereby waives all rights to institute or participate in, directly or  
indirectly, any form of legal action and releases all claims, including, without limitation, all

1 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages,  
2 costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert  
3 fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or  
4 contingent (collectively "claims"), against Advance Watch and each of its downstream  
5 wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners,  
6 purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers,  
7 directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent  
8 entities (collectively "releasees"). This release is limited to those claims that arise under  
9 Proposition 65 as such claims relate to Advance Watch's alleged failure to warn about exposures  
10 to the Listed Chemical contained in the Products.

11 The Parties further understand and agree that this release shall not extend upstream to any  
12 entities that manufactured the Products or any component parts thereof or to any distributors or  
13 suppliers who sold the Products or any component parts thereof to Advance Watch.

14 **5.2 Advance Watch's Release of Dr. Held**

15 Advance Watch waives any and all claims against Dr. Held, his attorneys, and other  
16 representatives for any and all actions taken or statements made (or those that could have been  
17 taken or made) by Dr. Held and his attorneys and other representatives, whether in the course of  
18 investigating claims or otherwise seeking enforcement of Proposition 65 against them in this  
19 matter, and/or with respect to the Products.

20 **6. COURT APPROVAL**

21 This Consent Judgment is not effective until it is approved and entered by the Court and  
22 shall be null and void if, for any reason, it is not approved and entered by the Court within six  
23 months after it has been fully executed by all parties, in which event any monies that have been  
24 provided to Dr. Held or his counsel pursuant to Section 3 and/or Section 4 above, shall be  
25 refunded within fifteen (15) days after receiving written notice from Advance Watch that the six-  
26 month period has expired.

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1 7. **SEVERABILITY**

2 If, subsequent to the execution of this Consent Judgment, any of the provisions of this  
3 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
4 provisions remaining shall not be adversely affected.

5 8. **GOVERNING LAW**

6 The terms of this Consent Judgment shall be governed by the laws of the State of  
7 California and apply within the State of California. In the event that Proposition 65 is repealed or  
8 is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Advance  
9 Watch shall provide written notice to Dr. Held of any asserted change in the law, and shall have no  
10 further obligations pursuant to this Consent Judgment with respect to, and to the extent that, the  
11 Products are so affected.

12 9. **NOTICES**

13 Unless specified herein, all correspondence and notices required to be provided pursuant to  
14 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class,  
15 (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the  
16 other party at the following addresses:

17 To Advance Watch:

18 M. Elizabeth McDaniel, Esq.  
19 Sheppard Mullin Richter & Hampton LLP  
20 4 Embarcadero Center, 17th Floor  
San Francisco, CA 94111

21 To Dr. Held:

22 Proposition 65 Coordinator  
23 Hirst & Chanler LLP  
24 2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

25 Any party, from time to time, may specify in writing to the other party a change of address to  
26 which all notices and other communications shall be sent.

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**10. COUNTERPARTS; FACSIMILE SIGNATURES**

This Consent Judgment may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

Dr. Held agrees to comply with the reporting form requirements referenced in California Health & Safety Code §25249.7(f).

**12. ADDITIONAL POST EXECUTION ACTIVITIES**

Dr. Held and Advance Watch agree to mutually employ their best efforts to support the entry of this agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The Parties acknowledge that, pursuant to California Health & Safety Code §25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment. Accordingly, Dr. Held agrees to file a Motion to Approve the Consent Judgment.

**13. MODIFICATION**

This Consent Judgment may be modified only: (1) by written agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion of any party and entry of a modified Consent Judgment by the Court. The Attorney General shall be served with notice of any proposed modification to this Consent Judgment at least fifteen (15) days in advance of its consideration by the Court.

1 **14. AUTHORIZATION**

2 The undersigned are authorized to execute this Consent Judgment on behalf of their  
3 respective parties and have read, understood, and agree to all of the terms and conditions of this  
4 Consent Judgment.

5 **AGREED TO:**

**AGREED TO:**

6 Date: 06/16/2008

Date: \_\_\_\_\_

7 *Anthony E Held*  
8 By: \_\_\_\_\_  
9 Plaintiff, ANTHONY E. HELD,  
Ph.D., P.E.

By: \_\_\_\_\_  
Defendant, ADVANCE WATCH CO.,  
LTD.

10 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

11 Date: 6/16/08<sup>a</sup>  
12 HIRST & CHANLER LLP

Date: \_\_\_\_\_  
SHEPPARD MULLIN RICHTER &  
HAMPTON LLP

13 *[Signature]*  
14 By: \_\_\_\_\_  
15 David Lavine  
Attorneys for Plaintiff  
ANTHONY E. HELD, Ph.D., P.E.

By: \_\_\_\_\_  
Michelle Hirth  
Attorneys for Defendant  
ADVANCE WATCH COMPANY, LTD.

16  
17 **IT IS SO ORDERED.**

18 Date: \_\_\_\_\_

\_\_\_\_\_  
19 JUDGE OF THE SUPERIOR COURT

1 **14. AUTHORIZATION**

2 The undersigned are authorized to execute this Consent Judgment on behalf of their  
3 respective parties and have read, understood, and agree to all of the terms and conditions of this  
4 Consent Judgment.

5 **AGREED TO:**

**AGREED TO:**

6 Date: \_\_\_\_\_

Date: JUNE 16, 2008

7  
8 By: \_\_\_\_\_  
9 Plaintiff, ANTHONY E. HELD,  
Ph.D., P.E.

By:   
Defendant, ADVANCE WATCH CO.,  
LTD.

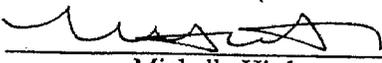
10 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

11 Date: \_\_\_\_\_  
12 HIRST & CHANLER LLP

Date: JUNE 16, 2008  
SHEPPARD MULLIN RICHTER &  
HAMPTON LLP

13 By: \_\_\_\_\_  
14 David Lavine  
15 Attorneys for Plaintiff  
ANTHONY E. HELD, Ph.D., P.E.

By:   
Michelle Hirth  
Attorneys for Defendant  
ADVANCE WATCH COMPANY, LTD.

16  
17 **IT IS SO ORDERED.**

18 Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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