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CENTER FOR ENVIRONMENTAL HEALTH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH, a non-profit corporation,

Plaintiff,

v.

PERFECT EQUIPMENT, INC.; HENNESSY INDUSTRIES, INC.; PLOMBCO INC.; CHRYSLER, LLC and Defendant DOES 1 through 200, inclusive,

Defendants.

Case No. RG08388923

[PROPOSED] CONSENT JUDGMENT RE: PLOMBCO INC.

1. INTRODUCTION

1.1 On May 22, 2008, plaintiff the Center for Environmental Health ("CEH"), a non-profit corporation acting in the public interest, initiated this action, entitled *Center for Environmental Health v. Perfect Equipment, Inc., et al.*, Alameda County Superior Court, Case Number RG08388923 (the "CEH Action"), by filing a complaint naming Plombco Inc. ("Defendant"), and others, as defendants. In the CEH Action, CEH seeks civil penalties and injunctive relief pursuant to the provisions of Cal. Health & Safety Code §25249.5 *et seq.* ("Proposition 65"). CEH and Defendant may sometimes be referred to collectively as the "Parties" or individually as a "Party."

1.2 Defendant is a corporation that employs 10 or more persons, and manufactures and/or distributes wheel balancing weights for sale in the State of California.

1.3 Beginning or about August 23, 2007, CEH served Defendant and the appropriate public enforcement agencies with the requisite 60-day notice (the "Notice"), alleging that Defendant was in violation of Proposition 65. CEH's Notice and the Complaint in this Action allege that Defendant discharges and releases lead and lead compounds (collectively, "Lead") into sources of drinking water, and onto land where the Lead passes or probably will pass into sources of drinking water, throughout the State of California. CEH also alleges that such discharges have occurred, and continue to occur, as a result of the manufacture, distribution, sale and/or use of Defendant's wheel balancing weights made with Lead. For purposes of this Consent Judgment only, "Defendant's Lead Wheel Weights" are any wheel balancing weight manufactured, distributed and/or sold by Defendant, and which contain at least 0.1% Lead by weight. Lead has been listed by the State of California as a reproductive toxin, and lead and lead compounds have been listed by the State of California as carcinogenic. The Notice and Complaint allege that Defendant's conduct violates Health & Safety Code §25249.5, the discharge prohibition of Proposition 65. Defendant disputes all such allegations, denies all material allegations contained in the Notice and in the Complaint, and asserts that all of its products are safe and comply with all applicable United States federal, state and local laws and regulations.

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 Alameda, and that this Court has jurisdiction to enter and enforce this Consent Judgment as a full and final resolution of all claims which have or could have been asserted or raised in the Complaint based on the facts alleged therein.

1.5 The Parties enter into this Consent Judgment pursuant to a settlement of disputed claims. Nothing in this Consent Judgment (including its execution by the Parties) shall be construed as an admission by any Party of any allegation, fact, finding, issue of law, violation of law, or conclusion of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by any Party. Nothing in this Consent Judgment shall prejudice, waive, impair or affect any right, remedy, argument, claim or defense the Parties may have against any other person or entity in this or any other or future legal proceedings.

2. COMPLIANCE - REMOVAL OF LEAD WHEEL WEIGHTS

2.1 Deadline for Removal. No later than the close of business (Central Daylight Savings Time) on December 31, 2008 (the "Reformulation Deadline"), Defendant shall cease shipping Lead Wheel Weights into California.

3. SETTLEMENT PAYMENTS

3.1 Total Payment. Defendant shall pay a total of thirty five thousand dollars ($35,000) (the "Total Payment"), in accordance with the instructions set forth in sub-sections 3.2, 3.3 and 3.4 below.

3.2 Payment in Lieu of Penalty. Twelve thousand dollars ($12,000) of the Total Payment shall be paid to CEH in lieu of any additional penalty pursuant to Health and Safety Code §25249.7(b). CEH shall use such funds to continue its work protecting people from alleged exposures to toxic chemicals. As part of this work, CEH may seek through legislation or litigation to eliminate the sale or use of wheel balancing weights that contain Lead. The payment required under this sub-section shall be made payable to CEH.

3.3 Attorneys' Fees and Costs. Twenty three thousand dollars ($23,000) of

the Total Payment shall be used to reimburse CEH and its attorneys 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, negotiating a settlement in the public interest, and obtaining Court approval of the settlement. The payment required under this section shall be made payable to Lexington Law Group, LLP.

3.4 Timing and Delivery of Payments. The payments required under sub-sections 3.1, 3.2 and 3.3 above shall be delivered, no later than ten (10) days after Court approval and entry of this Consent Judgment, to the Lexington Law Group, LLP at the address set forth in section 11.1.

4. MODIFICATION OF CONSENT JUDGMENT

4.1 This Consent Judgment may be modified only by written agreement of CEH and Defendant, followed by Court approval, or upon noticed motion filed by CEH or Defendant, as provided by law.

5. ENFORCEMENT OF CONSENT JUDGMENT

5.1 Any Party may, by noticed motion or application for an order to show cause, enforce the terms and conditions of this Consent Judgment, but only after that Party has given the other Party written notice of the alleged breach and a reasonable opportunity to cure, and the Parties have met and conferred in a good faith attempt to resolve the alleged breach. 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 each of the Parties, and each of their respective divisions, subdivisions, subsidiaries, successors and assigns.

7. RELEASE OF CLAIMS AND BINDING EFFECT

7.1 Release of Claims. In further consideration of the promises and agreements contained in this Consent Judgment, and for the payments required by Section 3 above, CEH, on behalf of itself, its officers, directors, employees, agents, representatives, attorneys, successor and assigns, and on behalf of the general public, hereby waives, discharges

and releases Defendant, and its officers, directors, shareholders, partners, joint venturers, parent companies, subsidiaries, affiliates, employees, agents, successors, assigns, and "Downstream Customers" (as defined in sub-section 7.3 below) (hereinafter, collectively, "Defendant Releasees"), from and against any and all claims, causes of action, suits, demands, obligations, liabilities, damages, costs, fines, penalties, losses and expenses (including, without limitation, investigation fees, expert fees, and attorney fees) of any nature whatsoever, in law and in equity, whether known or unknown, fixed or contingent, foreseen or unforeseen (hereinafter, "Claims"), arising under Proposition 65 or any other statute, regulation or common law theory, related to the alleged discharge or release of Lead into water or onto or into land where such Lead passes or probably will pass into any source of drinking water, from Defendant's Lead Wheel Weights shipped to California prior to the Reformulation Deadline.

7.2 Binding Effect. This Consent Judgment is a full, final and binding resolution of any alleged violation of Proposition 65, or any other statute, regulation or common law theory, that was or could have been asserted in the Notice or Complaint against Defendant Releasees, based on the alleged discharge or release of Lead into water or onto or into land where such Lead passes or probably will pass into any source of drinking water, from Defendant's Lead Wheel Weights shipped to California prior to the Reformulation Deadline. Compliance with the terms of this Consent Judgment shall constitute compliance with Proposition 65 for purposes of discharges or releases of Lead from Defendant's Lead Wheel Weights shipped to California prior to the Reformulation Deadline.

7.3 Definition of "Downstream Customers." For purposes of sub-sections 7.1 and 7.2 above, "Downstream Customers" shall mean and include all auto manufacturers, distributors and retailers, auto parts distributors and retailers, tire manufacturers, distributors and retailers, tire installers, auto and tire repair businesses, wheel balancing weight distributors and retailers, and all other persons and entities, who use, install, sell or distribute Defendant's Lead Wheel Weights prior to the Reformulation Deadline. The release and resolution of Claims set forth in sub-sections 7.1 and 7.2 above shall not extend or apply to Chrysler LLC and any Downstream Customer who, subsequent to the Reformulation Deadline, uses, installs, sells or

distributes any of Defendant's Lead Wheel Weights, or any wheel balancing weights containing lead that were manufactured by any other person or entity.

8. SEVERABILITY

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

9. GOVERNING LAW

9.1 The terms of this Consent Judgment shall be governed by and enforced under the laws of the State of California.

10. RETENTION OF JURISDICTION

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

11. PROVISION OF NOTICE

11.1 All notices required pursuant to this Consent Judgment shall be in writing and sent by first-class, registered, certified, or overnight mail, to the following:

For CEH:

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

For Plombco:

Roderick A. McLeod
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104

12. COURT APPROVAL

12.1 CEH shall comply with the settlement notice provisions of Health and Safety Code § 25249.7(f) and Title 11 of the California Code of Regulations, § 3003.

12.2 If this Consent Judgment is not approved and entered by the Court, it shall have no force or effect.

13. EXECUTION AND COUNTERPARTS

13.1 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile, each of which shall be deemed an original, and which taken together shall constitute one and the same document.

14. AUTHORIZATION

14.1 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, to enter into and execute the Consent Judgment on behalf of the Party represented, and to 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 shall bear its own fees and costs.

AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH

Michael C

Dated: 5/28/08

Michael Green, Executive Director
Center for Environmental Health

PLOMBCO INC.

_____ Dated: _____

_____
[Name]

_____
[Title]

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AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH

_____ Dated: _____

Michael Green, Executive Director
Center for Environmental Health

PLOMBCO INC.

_____ Dated: May 22, 2008

Claude Lussier
[Name]

President
[Title]

ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between CEH and Plombco Inc., the settlement is approved and the clerk is hereby directed to enter judgment in accordance with the terms herein.

Dated: AUG 2 0 2008

Judge Barbara J. Miller

Judge, Superior Court of the State of California