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Attorneys for Plaintiff
JOHN MOORE

FILED

JAN 29 2014

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: T. Fraguera (Deputy)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

JOHN MOORE,

Plaintiff,

v.

HALSTEAD NEW ENGLAND
CORPORATION; THE HOME DEPOT,
INC.; and DOES 1 through 150, inclusive,

Defendants.

) Case No.: CIV-1006130

) **[PROPOSED] JUDGMENT**
) **PURSUANT TO TERMS OF**
) **PROPOSITION 65 SETTLEMENT**
) **AND CONSENT JUDGMENT AS TO**
) **HALSTEAD NEW ENGLAND**
) **CORPORATION AND METROFLOR**
) **CORPORATION**

) Date: January 29, 2014
) Time: 8:30 a.m.
) Dept.: B
) Judge: Hon. Roy O. Chernus

ENTERED

55

1 In the above-entitled action, Plaintiff John Moore and Defendants Halstead New
2 England Corporation and Metroflor Corporation, having agreed through their respective counsel
3 that Judgment be entered pursuant to the terms of their settlement agreement in the form of a
4 Consent Judgment, and following this Court's issuance of an Order approving this Proposition
5 65 settlement and Consent Judgment:

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to California
7 Health & Safety Code § 25249.7(f)(4) and California Code of Civil Procedure § 664.6,
8 Judgment is entered in accordance with the terms of the Consent Judgment attached hereto as
9 **Exhibit 1.** By stipulation of the parties, the Court will retain jurisdiction to enforce the
10 settlement under Code of Civil Procedure § 664.6.

11
12 **IT IS SO ORDERED.**

13
14 Dated: 1/29/14



JUDGE OF THE SUPERIOR COURT

1 Clifford A. Chanler, State Bar No. 135534
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20 HALSTEAD NEW ENGLAND CORPORATION

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA
22 COUNTY OF MARIN
23 UNLIMITED CIVIL JURISDICTION

24 JOHN MOORE,
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29 Plaintiff,
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Case No. CIV-1006130
[PROPOSED] CONSENT JUDGMENT
Dept: B
Judge: Hon. Roy O. Chernus
Date: None set

Complaint Filed: November 19, 2010

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff John Moore (“Moore” or
4 “Plaintiff”) on the one hand, and Halstead New England Corporation (“Halstead”) and Metroflor
5 Corp. (“Metroflor”) (collectively the “Defendants”) on the other hand, with Moore, Halstead and
6 Metroflor collectively referred to as the “Parties.”

7 **1.2 John Moore**

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

11 **1.3 Halstead New England Corporation**

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

15 **1.4 Metroflor Corp.**

16 Moore contends that Metroflor employs ten or more persons and is a person in the course of
17 doing business for purposes of Proposition 65.

18 **1.5 General Allegations**

19 Moore asserts that Halstead and Metroflor have manufactured, imported, distributed and/or
20 sold vinyl flooring that contain phthalates, including di(2-ethylhexyl)phthalate (“DEHP”), without
21 the requisite Proposition 65 warnings. DEHP is on the Proposition 65 list as known to cause cancer
22 as well as birth defects and other reproductive harm.

23 **1.6 Product Description**

24 The products that are covered by this Consent Judgment are defined as vinyl flooring
25 containing DEHP manufactured, imported, distributed, sold and/or offered for sale in California by
26 Halstead and Metroflor, respectively, including, but not limited to, *Traffic Master Images Vinyl*
27
28

1 *Tile, Red Wood (#0 88969 55331 7), Traffic Master Images Vinyl Tile, HB Amber (#0 88969 55303*
2 *4) and Metro Design Tile, Pattern: Stone, No. 1520 Rock.* All such vinyl flooring containing DEHP
3 is referred to hereinafter as the “Products.”

4 **1.7 Notices of Violation**

5 On June 17, 2010, Moore served Halstead and various public enforcement agencies, with a
6 document entitled “60-Day Notice of Violation” (the “Halstead Notice”) that provided the
7 recipients with notice of alleged violations of California Health & Safety Code § 25249.6 based on
8 Halstead’s alleged failure to warn consumers and others that the Products exposed users in
9 California to DEHP. No public enforcer has prosecuted the allegations set forth in the Halstead
10 Notice.

11 On November 23, 2010, Moore served Halstead, The Home Depot, Inc. (“Home Depot”)
12 and various public enforcement agencies with a document entitled “Supplemental 60-Day Notice of
13 Violation” (the “Supplemental Notice”) that provided the recipients with notice of alleged
14 violations of California Health & Safety Code § 25249.6 based on Halstead’s and Home Depot’s
15 alleged failure to warn consumers and others that the Products exposed users in California to
16 DEHP. No public enforcer has prosecuted the allegations set forth in the Supplemental Notice.

17 On August 30, 2013, Moore served Metroflor and various public enforcement agencies,
18 with a document entitled “60-Day Notice of Violation” (the “Metroflor Notice”) that provided the
19 recipients with notice of alleged violations of California Health & Safety Code § 25249.6 based on
20 Metroflor’s alleged failure to warn consumers and others that the Products exposed users in
21 California to DEHP. No public enforcer has prosecuted the allegations set forth in the Metroflor
22 Notice. The Halstead Notice, Supplemental Notice and Metroflor Notice shall hereinafter
23 collectively be referred to as the “Notices.”

24 **1.8 Complaint**

25 On or about, November 19, 2010, Moore filed a complaint in the Superior Court in and for
26 the County of Marin against Halstead New England Corporation and Does 1 through 150, *Moore v.*
27 *Halstead, et al.*, Case No. CIV-1006130 (“Complaint” or “Action”), alleging violations of
28 California Health & Safety Code § 25249.6, based on the alleged exposures to DEHP contained in

1 certain vinyl flooring products sold by Halstead. On or about February 17, 2011, Moore filed a
2 First Amended Complaint adding Home Depot as a named defendant and incorporating the
3 allegations contained in the Supplemental Notice (“First Amended Complaint”). Upon entry of this
4 Consent Judgment, and provided no public enforcer has elected to enforce the violations alleged in
5 the Metroflor Notice, the First Amended Complaint shall be deemed amended *nunc pro tunc* to
6 include: (i) Metroflor as a named Defendant; and (ii) the violations alleged by Englander in the
7 Metroflor Notice.

8 **1.9 No Admission**

9 Halstead denies the material, factual and legal allegations contained in the Halstead Notice,
10 the Supplemental Notice, the Complaint, and the First Amended Complaint and maintains that all
11 products that it has manufactured, imported, marketed, distributed, sold, and/or offered for sale in
12 California, including the Products, have been and are in compliance with all applicable laws.

13 Metroflor denies the material, factual and legal allegations contained in the Metroflor Notice
14 and maintains that all products that it has manufactured, imported, marketed, distributed, sold,
15 and/or offered for sale in California, including the Products, have been and are in compliance with
16 all applicable laws.

17 Nothing in this Consent Judgment shall be construed as an admission or statement against
18 interest by Halstead or Metroflor of any fact, finding, issue of law, or violation of law, nor shall
19 compliance with this Consent Judgment constitute or be construed as an admission or statement
20 against interest by Halstead or Metroflor of any fact, finding, conclusion, issue of law, or violation
21 of law, such being specifically denied by Halstead or Metroflor. However, this section shall not
22 diminish or otherwise affect the obligations, responsibilities and duties of Halstead or Metroflor
23 under this Consent Judgment.

24 **1.10 Consent to Jurisdiction**

25 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
26 jurisdiction over Halstead and Metroflor as to the allegations contained in the First Amended
27 Complaint and the Metroflor Notice, that venue is proper in the County of Marin, and that this
28 Court has jurisdiction to enter and enforce the provisions of this Consent Judgment.

1 **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

2 **2.1 Reformulation Standards**

3 “Reformulated Products” are defined as: (1) Products manufactured on or after April 1,
4 2013, that contain DEHP in concentrations less than: (a) 0.1 percent (1,000 parts per million) in the
5 top film layer of any Product (“Top Component”); (b) 3.0 percent (30,000 parts per million) in the
6 bottom base layer (“Bottom Component”); and (c) 2.5 percent (25,000 parts per million) in the
7 entire Product when all components are taken as a whole; and (2) Products manufactured before
8 April 1, 2013, that contain DEHP in concentrations less than: (a) 0.1 percent (1,000 parts per
9 million) in the Top Component; and (b) 5.0 percent (50,000 parts per million) in the entire Product
10 when all components are taken as a whole; provided further that DEHP is not intentionally added to
11 the Product and is present as a component of recycled material used in the Product. Testing
12 analysis to demonstrate compliance shall be pursuant to European Standard EN 14372, U.S.
13 Environmental Protection Agency testing methodologies 3580A and 8270C, or any other
14 methodology utilized by federal or state agencies for the purpose of determining the DEHP content
15 in a solid substance. Compliance with requirements applicable to: (i) the Top Component shall be
16 determined by testing the separate Top Component before it is manufactured, processed, or
17 assembled into the entire Product; (ii) the Bottom Component may be determined by testing the
18 Bottom Component which has been separated from the entire Product after it is available for sale in
19 the market place; and (iii) the entire Product may be determined by testing the entire Product after it
20 is available for sale in the market place. Halstead and Metroflor shall send a representative Top
21 Component sample, before it is used to produce the entire Product, with the certifications provided
22 under Sections 3.2 and 3.3. Additionally, Halstead shall undertake every reasonable effort to use
23 the lowest commercially available DEHP level in all materials used in the Product.

24 **2.2 Product Warnings**

25 Commencing on the Effective Date, Halstead and Metroflor, respectively, shall, for each of
26 its own Products other than Reformulated Products (“Other Products”), provide clear and
27 reasonable warnings as set forth in subsections 2.2(a) and (b). Each warning shall be prominently
28 placed with such conspicuousness as compared with other words, statements, designs, or devices as

1 to render it likely to be read and understood by an ordinary individual under customary conditions
2 before purchase or use. Each warning shall be provided in a manner such that the consumer or user
3 understands to which *specific* Other Product the warning applies, so as to minimize the risk of
4 consumer confusion.

5 (a) **Retail Store Sales.**

6 (i) **Product Labeling.** Halstead and Metroflor respectively shall affix a
7 warning to the packaging, labeling, or directly on each of its own Other Products sold in retail
8 outlets in California by Halstead, Metroflor, or any person selling Other Products, that states:

9 **WARNING:** This product contains DEHP, a phthalate
10 chemical known to the State of California to
cause birth defects and other reproductive harm.

11 (ii) **Point-of-Sale Warnings.** Alternatively, Halstead and Metroflor
12 respectively may provide warning signs in the form below to its customers in California with
13 instructions to post the warnings in close proximity to the point of display of the Other Products.
14 Such instruction sent to Halstead's and Metroflor's customers shall be sent by certified mail,
15 return receipt requested and shall state:

16 **WARNING:** This product contains DEHP, a phthalate
17 chemical known to the State of California to
cause birth defects and other reproductive harm.

18 Where more than one Other Product is sold in proximity to other like items or to those that
19 do not require a warning (*e.g.*, Reformulated Products as defined in Section 2.1), the following
20 statement must be used: ¹

21 **WARNING:** The following products contain DEHP, a
22 phthalate chemical known to the State of
23 California to cause birth defects and other
reproductive harm.

24 (b) **Mail Order Catalog and Internet Sales.**

25 In the event that Halstead sells Other Products via mail order catalog and/or the
26 internet, to customers located in California, after the Effective Date, Halstead and Metroflor,

27 _____
28 ¹ For purposes of the Consent Judgment, "sold in proximity" shall mean that the Other Product and another product are offered for sale close enough to each other that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

1 respectively, shall provide a warning for each of its own Other Products sold via mail order catalog
2 or the internet to California residents. Warnings given in the mail order catalog or on the internet
3 shall identify the specific Other Product to which the warning applies as further specified in
4 Sections 2.2(b)(i) and (ii).

5 (i) **Mail Order Catalog Warning.** Any warning provided in a mail
6 order catalog shall be in the same type size or larger than the Other Product description text within
7 the catalog. The following warning shall be provided on the same page and in the same location as
8 the display and/or description of the Other Product:

9 **WARNING:** This product contains DEHP, a phthalate
10 chemical known to the State of California to
cause birth defects and other reproductive harm.

11 Where it is impracticable to provide the warning on the same page and in the same location
12 as the display and/or description of the Other Product, Halstead and Metroflor, respectively, may
13 utilize a designated symbol to cross reference the applicable warning and shall define the term
14 “designated symbol” with the following language on the inside of the front cover of the catalog or
15 on the same page as any order form for each of its the Other Product(s):

16 **WARNING:** Certain products identified with this symbol
17 ▼ and offered for sale in this catalog contain
18 DEHP, a phthalate chemical known to the
State of California to cause birth defects and
other reproductive harm.

19 The designated symbol shall appear on the same page and in close proximity to the display
20 and/or description of the Other Product. On each page where the designated symbol appears,
21 Halstead and Metroflor, respectively, shall provide a header or footer directing the consumer to the
22 warning language and definition of the designated symbol.

23 (ii) **Internet Website Warning.** A warning may be given in conjunction
24 with the sale of the Other Products via the internet, provided it appears either: (a) on the same web
25 page on which a Other Product is displayed; (b) on the same web page as the order form for a
26 Other Product; (c) on the same page as the price for any Other Product; or (d) on one or more web
27 pages displayed to a purchaser during the checkout process. The following warning statement shall
28 be used and shall appear in any of the above instances adjacent to or immediately following the

1 display, description, or price of the Other Product for which it is given in the same type size or
2 larger than the Other Product description text:

3 **WARNING:** This product contains DEHP, a phthalate
4 chemical known to the State of California to
5 cause birth defects and other reproductive harm.

6 Alternatively, the designated symbol may appear adjacent to or immediately following the
7 display, description, or price of the Other Product for which a warning is being given, provided that
8 the following warning statement also appears elsewhere on the same web page, as follows:

9 **WARNING:** Products identified on this page with the
10 following symbol ▼ contain DEHP, a
11 phthalate chemical known to the State of
12 California to cause birth defects and other
13 reproductive harm.

14 **3. PAYMENT OF PENALTIES**

15 In settlement of all the claims referred to in this Consent Judgment, Halstead and Metroflor
16 shall pay a total of \$540,000 in civil fines as set forth below.

17 **3.1 Initial Civil Penalty**

18 Halstead and Metroflor shall collectively pay a total of \$40,000 in initial civil penalties, to
19 be apportioned in accordance with California Health & Safety Code § 25249.12(c) & (d), with 75%
20 of these funds remitted to the State of California's Office of Environmental Health Hazard
21 Assessment ("OEHHA") and the remaining 25% of the penalty remitted to John Moore. Separate
22 checks for the penalty payment will be issued: (a) one check made payable to "The Chanler Group
23 in Trust For OEHHA" in the amount of \$30,000, representing 75% of the total penalty; and (b) one
24 check to "The Chanler Group in Trust for John Moore" in the amount of \$10,000, representing 25%
25 of the total penalty. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O.
26 Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) John Moore, whose information
27 shall be provided five calendar days before the payment is due.
28

1 Payment shall be delivered to Moore's counsel on or before October 18, 2013, at the
2 following address:

3 The Chanler Group
4 Attn: Proposition 65 Controller
5 2560 Ninth Street
6 Parker Plaza, Suite 214
7 Berkeley, CA 94710

8 **3.2 Second Civil Penalty**

9 Halstead and Metroflor shall collectively pay a second civil penalty totaling \$200,000 on, or
10 before, December 19, 2014. As incentive to reformulate the Other Products, however, the second
11 civil penalty shall be waived in its entirety if an Officer of Halstead and an Officer of Metroflor,
12 respectively, certify in writing that, as of December 5, 2014, at least 75% of their respective Other
13 Products, by number of sales units, that Halstead and Metroflor will continue to sell, ship and offer
14 for sale in California after December 5, 2014, are Reformulated Products. Such certification must
15 be received by The Chanler Group on or before December 19, 2014. If one company makes the
16 certification and the other one does not, the company not making the certification shall pay
17 \$100,000 as a second civil penalty. Any second civil penalty payment shall be apportioned in
18 accordance with California Health & Safety Code § 25249.12(c) & (d), with 75% of these funds
19 remitted to the State of California's Office of Environmental Health Hazard Assessment
20 ("OEHHA") and the remaining 25% of the penalty remitted to John Moore. Separate checks for the
21 second civil penalty payment shall be issued: (a) one check made payable to "The Chanler Group in
22 Trust For OEHHA" in an amount representing 75% of the second civil penalty owed; and (b) one
23 check to "The Chanler Group in Trust for John Moore" in an amount-representing 25% of the total
24 penalty owed. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box
25 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) John Moore, whose information shall be
26 provided five calendar days before the payment is due (if different than the information already
27 provided to Halstead and Metroflor under Section 3.1 above). The certification in lieu of paying the
28 second civil penalty provided by this Section is a material term, and time is of the essence.

1 Payment shall be delivered to Moore's counsel at the following address:

2 The Chanler Group
3 Attn: Proposition 65 Controller
4 2560 Ninth Street
5 Parker Plaza, Suite 214
6 Berkeley, CA 94710

7 **3.3 Final Civil Penalty**

8 Halstead and Metroflor shall collectively pay a final civil penalty totaling \$300,000 on, or
9 before, December 18, 2015. As incentive to reformulate the Other Products, however, the final
10 civil penalty shall be waived in its entirety if an Officer of Halstead and an Officer of Metroflor,
11 respectively, certify in writing that, as of December 4, 2015, at least 90% of their respective Other
12 Products, by number of sales units, that Halstead and Metroflor will continue to sell, ship and offer
13 for sale in California after December 4, 2015, are Reformulated Products. Such certification must
14 be received by The Chanler Group on or before December 18, 2015. Any final civil penalty
15 payment shall be apportioned in accordance with California Health & Safety Code § 25249.12(c) &
16 (d), with 75% of these funds remitted to the State of California's Office of Environmental Health
17 Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to John Moore.
18 Separate checks for the final civil penalty payment shall be issued: (a) one check made payable to
19 "The Chanler Group in Trust For OEHHA" in an amount representing 75% of the second civil
20 penalty owed; and (b) one check to "The Chanler Group in Trust for John Moore" in an amount
21 representing 25% of the total penalty owed. Two separate 1099s shall be issued for the above
22 payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) John
23 Moore, whose information shall be provided five calendar days before the payment is due (if
24 different than the information already provided to Halstead and Metroflor under Section 3.1 above).
25 The certification in lieu of paying the final civil penalty provided by this Section is a material term,
26 and time is of the essence.

27 Payment shall be delivered to Moore's counsel at the following address:

28 The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

1 **4. REIMBURSEMENT OF ATTORNEY'S FEES AND COSTS**

2 The Parties reached an accord on the compensation due to Moore and his counsel under the
3 general contract principles and the private attorney general doctrine codified at Code of Civil
4 Procedure ("CCP") § 1021.5. Halstead and Metroflor shall reimburse Moore and his counsel a total
5 of \$280,000 for fees and costs incurred as a result of investigating, bringing this matter to its
6 attention, and negotiating a settlement in the public interest. This figure includes Moore's future
7 fees and costs including, but not limited to, attorney's fees to be incurred in seeking judicial
8 approval of this Consent Judgment as well as any other legal work performed after the execution of
9 this Consent Judgment incurred in an effort to obtain finality of the case. However, in the event a
10 third party were to appeal entry of this Consent Judgment, Plaintiff and his counsel shall be entitled
11 to seek their reasonable attorney's fees and costs associated with all appellate work defending the
12 entry of judgment pursuant to CCP § 1021.5.

13 The check for reimbursement of fees and costs shall be made payable to "The Chanler
14 Group" and shall be delivered on or before October 18, 2013 to the following address:

15 The Chanler Group
16 Attn: Proposition 65 Controller
17 2560 Ninth Street
18 Parker Plaza, Suite 214
19 Berkeley, CA 94710

20 A separate 1099 shall be issued to "The Chanler Group" (EIN: 94-3171522) for the amount
21 of the reimbursement of Plaintiff's fees and costs.

22 **5. RELEASE OF ALL CLAIMS**

23 **5.1 Full, Final and Binding Resolution of Proposition 65 Allegations**

24 This Consent Judgment is a full, final and binding resolution among: (1) Moore, on behalf
25 of himself and the public ("Moore Releasees"); (2) Halstead, its parents, subsidiaries, related
26 entities, successors, predecessors, assignees, directors, officers, shareholders, employees, attorneys,
27 representatives, consultants, agents, and each entity to whom Halstead directly or indirectly
28 distributes or sells Products including, but not limited, to downstream distributors, wholesalers,
customers, retailers such as Home Depot, franchisees, cooperative members, licensors, and
licensees ("Halstead Releasees"); and (3) Metroflor, its parents, subsidiaries, related entities,

1 successors, predecessors, assignees, directors, officers, employees, shareholders, attorneys,
2 representatives, consultants, agents, and each entity to whom Metroflor directly or indirectly
3 distributes or sells Products including, but not limited, to downstream distributors, wholesalers,
4 customers, retailers, franchisees, cooperative members, licensors, and licensees (“Metroflor
5 Releasees”), of any violation of Proposition 65 that may or could have been asserted by Moore
6 Releasees against Halstead Releasees or Metroflor Releasees, based on the failure to warn about
7 alleged exposures to DEHP contained in the Products that were sold by Halstead or Metroflor.

8 **5.2 Moore’s Public Release of Proposition 65 Claims**

9 In further consideration of the promises and agreements herein contained, Moore on behalf
10 of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and
11 in the interest of the general public, hereby waives all rights to institute or participate in, directly or
12 indirectly, any form of legal action and releases all claims, including, but not limited to, all actions,
13 and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs,
14 fines, penalties, losses, or expenses -- including, but not limited to, investigation fees, expert fees,
15 and attorneys’ fees-- of any nature, character or kind, whether known or unknown, suspected or
16 unsuspected, limited to and arising under Proposition 65 with respect to DEHP in the Products sold
17 by Halstead or Metroflor, against Halstead Releasees and Metroflor Releasees.

18 **5.3 Moore’s Individual Release of Claims**

19 Moore also, in his individual capacity only and *not* in his representative capacity, provides a
20 release herein which shall be effective as a full and final accord and satisfaction, as a bar to all
21 actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses, claims,
22 liabilities and demands of Moore of any nature, character or kind, whether known or unknown,
23 suspected or unsuspected, limited to and arising out of alleged or actual exposures to DEHP in the
24 Products manufactured, distributed or sold by Halstead or Metroflor against Halstead Releasees and
25 Metroflor Releasees.

26 **5.4 Halstead’s Release of Moore**

27 Halstead on behalf of itself, its past and current agents, representatives, attorneys,
28 successors, and/or assignees, hereby waives any and all claims against Moore, his attorneys and

1 other representatives, for any and all actions taken or statements made (or those that could have
2 been taken or made) by Moore and his attorneys and other representatives, whether in the course of
3 investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with
4 respect to the Products.

5 **5.5 Metroflor's Release of Moore**

6 Metroflor on behalf of itself, its past and current agents, representatives, attorneys,
7 successors, and/or assignees, hereby waives any and all claims against Moore, his attorneys and
8 other representatives, for any and all actions taken or statements made (or those that could have
9 been taken or made) by Moore and his attorneys and other representatives, whether in the course of
10 investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with
11 respect to the Products.

12 **5.6 Dismissal of Home Depot**

13 Upon entry of this Consent Judgment, Moore shall file a dismissal without prejudice of the
14 First Amended Complaint against Home Depot.

15 **6. COURT APPROVAL**

16 This Consent Judgment is not effective until it is approved and entered by the Court and
17 shall be null and void if, for any reason, it is not approved and entered by the Court within one year
18 after it has been fully executed by all Parties.

19 **7. SEVERABILITY**

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

23 **8. GOVERNING LAW**

24 The terms of this Consent Judgment shall be governed by the laws of the State of California
25 and apply within the State of California. In the event that Proposition 65 is repealed, preempted or
26 is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this
27 Consent Judgment are rendered inapplicable or no longer require as a result of any such repeal or
28 preemption or rendered inapplicable by reason of law generally as to the Products, then Halstead

1 and Metroflor, respectively, shall have no further obligations pursuant to this Consent Judgment
2 with respect to, and to the extent that, the Products are so affected.

3 **9. NOTICES**

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

8 To Halstead:

9 Ben D. Whitwell
10 Jennifer Levin
11 VENABLE LLP
12 2049 Century Park East
13 Suite 2100
14 Los Angeles, CA 90067

15 William N. Hall
16 VENABLE LLP
17 575 7th Street, N.W.
18 Washington, DC 20004

To Moore:

19 Proposition 65 Coordinator
20 The Chanler Group
21 2560 Ninth Street
22 Parker Plaza, Suite 214
23 Berkeley, CA 94710-2565

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

26 **10. COUNTERPARTS; FACSIMILE SIGNATURES**

27 This Consent Judgment may be executed in counterparts and by facsimile or pdf signature,
28 each of which shall be deemed an original, and all of which, when taken together, shall constitute
one and the same document. A facsimile or pdf signature shall be as valid as the original.

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

Moore and his attorneys agree to comply with the reporting form requirements referenced in
California Health & Safety Code § 25249.7(f).

12. **ADDITIONAL POST EXECUTION ACTIVITIES**

Moore, Halstead, and Metroflor agree to mutually employ their, and their counsel's, 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

1 of this Consent Judgment, which Moore shall draft and provide to Halstead and Metroflor for
2 review and comment, which comment(s) shall be provided within 3 business days. If the
3 reasonable comments of Halstead and Metroflor are incorporated, they shall join the noticed motion
4 which Moore shall file. If any third party objection to the noticed motion is filed, the Parties shall
5 work together to file a joint reply and appear at any hearing before the Court. This provision is a
6 material component of the Consent Judgment and shall be treated as such in the event of a breach.
7 If the Superior Court does not approve the motion to approve this Consent Judgment, and if the
8 Parties choose not to pursue a modified Consent Judgment within 30 days after the Court's denial
9 of the motion to approve, then all payments made pursuant to this Consent Judgment will be
10 returned to counsel for Halstead and Metroflor.

11 **13. MODIFICATION**

12 This Consent Judgment may be modified only: (1) by written agreement of the Parties and
13 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
14 of any party and entry of a modified Consent Judgment by the Court.


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14. AUTHORIZATION

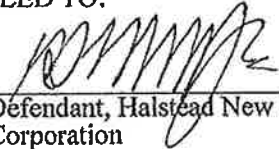
The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

AGREED TO:

By: 
Plaintiff, John Moore

Date: OCTOBER 10, 2013

AGREED TO:

By: 
Defendant, Halstead New England Corporation

HARLAN M STONE
Print Name

CEO
Print Title

Date: OCT 11, 2013

AGREED TO:

By: 
Defendant, Metroflor Corporation

Harlan Stone
Print Name

CEO, Director
Print Title

Date: OCT 11, 2013