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FILED
FEB 01 2012
KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: A. Garcia, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY

UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, PhD., P.E., Plaintiff, v. PANASONIC CORPORATION OF NORTH AMERICA; *et al.*, Defendants.	Case No. CIV1103671 **[~~PROPOSED~~] JUDGMENT PURSUANT TO TERMS OF PROPOSITION 65 SETTLEMENT AND CONSENT JUDGMENT** Date: February 1, 2012 Time: 8:30 a.m. Dept.: B Judge: Hon. Roy O. Chernus

Plaintiff, Anthony Held, and defendant, Panasonic Corporation of North America, having agreed through their respective counsel that Judgment be entered pursuant to the terms of their settlement agreement in the form of a Consent Judgment, and following this Court's issuance of an Order approving the parties' Proposition 65 settlement and Consent Judgment,

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

IT IS SO ORDERED.

Dated: FEB 01 2012

ROY CHERNUS
JUDGE OF THE SUPERIOR COURT

Exhibit 1

Clifford A. Chanler, State Bar No. 135534
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Attorneys for Plaintiff
ANTHONY E. HELD, PhD., P.E.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, PhD., P.E., Plaintiff, v. PANASONIC CORPORATION OF NORTH AMERICA; *et al.*, Defendants.	Case No. CIV1103671 **[PROPOSED] CONSENT JUDGMENT** Health & Safety Code § 25249.6

1. INTRODUCTION

1.1 Parties

This Consent Judgment is entered into by and between Anthony E. Held, PhD., P.E. ("Held" or "Plaintiff") and Panasonic Corporation of North America ("Panasonic" or "Defendant"), with Held and Panasonic collectively referred to as the "Parties."

1.2 Plaintiff

Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.3 Defendant

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

1.4 General Allegations

Held alleges that Panasonic has sold in the state of California toiletry cases/bags containing di(2-ethylhexyl)phthalate ("DEHP") in levels that require a warning pursuant to Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects or other reproductive harm. DEHP is referred to hereinafter as the "Listed Chemical."

1.5 Product Description

The products that are covered by this Consent Judgment are toiletry cases/bags containing the Listed Chemical, specifically, and this agreement is limited to, the *Shanti/Panasonic Spa Kit (#0 37988 56082 0)* (hereinafter "Products").

1.6 Notices of Violation

On or about March 31, 2011, Held served Panasonic and various public enforcement agencies with a document entitled "60-Day Notice of Violation" ("Notice") that informed the recipients that Panasonic was allegedly in violation of Proposition 65 for failing to warn its customers and consumers in California that the Products expose users to DEHP.

1.7 Complaint

On or about July 25, 2011, Held, acting in the interest of the general public in California, filed the instant action ("Complaint"), naming Panasonic as a defendant, and stating a cause of action for the violations of Health & Safety Code § 25249.6 alleged in the Notice.

1.8 No Admission

Panasonic denies the material, factual, and legal allegations contained in the Notice and Complaint and maintains that all of the products that it has sold in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Consent Judgment shall be construed as an admission by Panasonic of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Consent Judgment constitute or be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law, the same being specifically denied by Panasonic. This section shall not, however, diminish or otherwise affect the obligations, responsibilities, and duties of Panasonic under this Consent Judgment.

1.9 Consent to Jurisdiction

For purposes of this Consent Judgment only, the Parties stipulate that the Court has jurisdiction over Panasonic as to the allegations in the Complaint, that venue is proper in Marin County, and that the Court has jurisdiction to enter and enforce the provisions of this Consent Judgment.

1.10 Effective Date

For purposes of this Consent Judgment, the term "Effective Date" shall mean September 19, 2011.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Commitment

As of the Effective Date, Panasonic shall only distribute, ship, sell or offer to ship to for sale in California Products that are "DEHP Free." For purposes of this Consent Judgment, "DEHP Free" shall mean Products that contain no more than 0.1 percent (1,000 parts per million) of the Listed Chemical when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C.

3. MONETARY PAYMENTS

3.1 Payments Pursuant to California Health & Safety Code § 25249.7(b)

Pursuant to the factors enumerated in Health & Safety Code § 25249.7(b), and in settlement of all claims alleged in the Notice and Complaint and referred to in this Consent Judgment, Panasonic shall pay $3,500 in civil penalties. This amount reflects a penalty credit of $4,500 provided by Held in response to Panasonic's cooperation in the resolution of this action and its commitment to only offer DEHP Free Products for sale in California after the Effective Date.

The penalty payment shall be apportioned in accordance with California Health & Safety Code §§ 25249.12 (c)(1) & (d), with seventy-five percent of the penalty amount paid to California's Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining twenty-five percent remitted to Held.

Panasonic shall issue two checks for its penalty payment to: (a) "The Chanler Group in Trust for OEHHA" in the amount of $2,625; and (b) "The Chanler Group in Trust for Anthony Held" in the amount of $875. A separate 1099 form shall be issued for each of these payments to: (a) Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486); and (b) Anthony E. Held, PhD., P.E., whose tax information shall be provided upon request five days before the payment is due.

All payments made pursuant to this section shall be delivered to Held's counsel within five days of the Effective Date at the following address:

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

4. REIMBURSEMENT OF FEES AND COSTS

4.1 Attorney Fees and Costs

The Parties acknowledge that 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. Panasonic 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 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. Panasonic shall pay $29,500 for fees and costs incurred as a result of investigating, bringing this matter to its attention, litigating and negotiating a settlement in the public interest. This figure includes Held's future fees and costs including attorney's fees to be incurred in seeking judicial approval of this Consent Judgment as well as any other legal work performed after the execution of this Consent Judgment incurred in an effort to obtain finality of the case. However, in the event a third party were to appeal entry of this Consent Judgment, Plaintiff and his counsel shall be entitled to seek their reasonable attorney's fees and costs associated with all necessary work defending the entry of judgment pursuant to CCP § 1021.5.

All payments made pursuant to this section shall be delivered to Held's counsel within five days of the Effective Date at the following address:

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

Panasonic shall also provide a 1099 form for payments to "The Chanler Group" (EIN: 94-3171522).

CLAIMS COVERED AND RELEASED

5.1 Full, Final and Binding Resolution of Proposition 65 Allegations

This Consent Judgment is a full, final and binding resolution between Held, on behalf of himself and the public, and Panasonic, of any violation of Proposition 65 that was brought, or could have been brought, against Panasonic, its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, attorneys, and each entity to whom Panasonic directly or indirectly distributes or sells the Products, including, without limitation, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on Panasonic's alleged failure to warn about exposures to the Listed Chemical contained in the Products.

5.2 Held's Public Release of Proposition 65 Claims

In further consideration of the promises and agreements herein contained, Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and in 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 actions and causes of action in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert fees, and attorneys' fees – exclusive of fees and costs on appeal, if any – arising under Proposition 65 (collectively "Claims") against Panasonic and Releasees. However, the releases provided by this section are specifically limited to those claims that were brought or could have brought against Panasonic and the Releasees alleged failure to warn about exposures to the Listed Chemical contained in the Products sold by Panasonic.

5.3 Held's Individual Release of Claims

Held also, in his individual capacity only and *not* in his representative capacity, provides a release herein which shall be effective as a full and final accord and satisfaction, as a bar to all Claims, liabilities, and demands of Held of any nature, character, or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to the Listed Chemical contained in the Products.

5.4 Panasonic's Release of Held

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

6. <u>COURT APPROVAL</u>

This Consent Judgment is not effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within one year after it

has been fully executed by all Parties, in which event any monies that have been provided to Held or his counsel pursuant to Sections 3.1 and/or Section 4.1 above shall be refunded within fifteen (15) days after receiving written notice from Panasonic that the one-year period has expired and the Consent Judgment has not been approved by the Court.

7. SEVERABILITY

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

8. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Panasonic may provide written notice to Held of any asserted change in the law, and shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve Panasonic from any obligation to comply with any pertinent state or federal toxics control laws.

9. NOTICES

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

For Panasonic:

Bill Hedden, Assistant General Counsel
Panasonic Corporation of North America
1 Panasonic Way
Secaucus, NJ 07094

For Held:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

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

10. COUNTERPARTS; FACSIMILE SIGNATURES

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

11. POST EXECUTION ACTIVITIES

Held agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f). 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. In furtherance of obtaining such approval, Held and Panasonic and their respective counsel 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. For purposes of this section, "best efforts" shall include, at a minimum, cooperating on the drafting and filing of any papers in support of the required motion for judicial approval.

12. 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

13. AUTHORIZATION

The undersigned are authorized to execute this Consent Judgment and have read, understood, and agree to all of the terms and conditions hereof.

AGREED TO:	**AGREED TO:**
ANTHONY E. HELD, PHD., P.E.	PANASONIC CORPORATION OF NORTH AMERICA
Anthony E Held	By:_____
APPROVED By Tony Held at 11:47 am, Sep 22, 2011	Its:_____
Date:_____	Date:_____

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

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The undersigned are authorized to execute this Consent Judgment and have read, understood, and agree to all of the terms and conditions hereof.

AGREED TO:	**AGREED TO:**
ANTHONY E. HELD, PHD., P.E.	PANASONIC CORPORATION OF NORTH AMERICA
_____	By: ROBERT S. MARIN
	Its: VICE PRESIDENT
Date: _____	Date: 9/20/11