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6 PETER ENGLANDER

ENDORSED  
FILED  
ALAMEDA COUNTY

FEB 28 2014

CLERK OF THE SUPERIOR COURT  
By YOLANDA ESTRADA Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 UNLIMITED CIVIL JURISDICTION

11 PETER ENGLANDER,

12 Plaintiff,

13 v.

14 GRAND BASKET CO. INC., et al.

15 Defendants.

Case No. RG13677613

) ~~PROPOSED~~ JUDGMENT PURSUANT  
) TO TERMS OF PROPOSITION 65  
) SETTLEMENTS AND CONSENT  
) JUDGMENTS AS TO JOFRAN SALES,  
) INC. AND RIVERSIDE FURNITURE  
) CORPORATION

) Date: February 28, 2014

) Time: 9:00 a.m.

) Dept.: 17

) Judge: Hon. George C. Hernandez, Jr.

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to California Health & Safety Code § 25249.7(f)(4) and California Code of Civil Procedure § 664.6, Judgment is entered in accordance with the terms of the Consent Judgments attached hereto as **Exhibits 1 and 2**, and as further modified by the Order approving the Proposition 65 settlements and Consent Judgments. By stipulation of the parties, the Court will retain jurisdiction to enforce the settlements under Code of Civil Procedure § 664.6.

**IT IS SO ORDERED.**

Dated: FEB 28 2014

GEORGE C. HERNANDEZ, JR.  
JUDGE OF THE SUPERIOR COURT

**Exhibit 1**  
**(To Judgment)**

1 Clifford A. Chanler, State Bar No. 135534  
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6 Attorneys for Plaintiff  
PETER ENGLANDER

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA - UNLIMITED CIVIL JURISDICTION

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PETER ENGLANDER,  
Plaintiff,  
v.  
GRAND BASKET CO. INC.; et al.,  
Defendants.

) Case No. RG 13-677613  
)  
) Assigned for All Purposes to  
) Judge George C. Hernandez, Jr.,  
) Department 17  
)  
) **[PROPOSED] CONSENT JUDGMENT AS**  
) **TO JOFRAN SALES, INC.**  
)  
) **(Health & Safety Code § 25249.6 et seq.)**  
)  
)  
) Complaint Filed: April 30, 2013

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Peter Englander  
4 (“Englander”) and Jofran Sales, Inc. (“Jofran”), with Englander and Jofran collectively referred to  
5 as the “Parties.”

6 **1.2 Peter Englander**

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

10 **1.3 Jofran Sales, Inc.**

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

14 **1.4 General Allegations**

15 1.4.1 Englander alleges that Jofran manufactured, imported, sold and/or distributed  
16 for sale in California products with foam cushioned components containing tris(1,3-dichloro-2-  
17 propyl) phosphate (“TDCPP”) and tris(2-chloroethyl) phosphate (“TCEP”) without the requisite  
18 Proposition 65 health hazard warnings. Englander alleges that TDCPP and TCEP escape from  
19 foam padding, leading to human exposures.

20 1.4.2 Pursuant to Proposition 65, on April 1, 1992, California identified and listed  
21 TCEP as a chemical known to cause cancer. TCEP became subject to the “clear and reasonable  
22 warning” requirements of Proposition 65 one year later on April 1, 1993. Cal. Code Regs., tit. 27, §  
23 27001(b); Health & Safety Code §§ 25249.8 and 25249.10(b).

24 1.4.3 Pursuant to Proposition 65, on October 28, 2011, California identified and  
25 listed TDCPP as a chemical known to cause cancer. TDCPP became subject to the “clear and  
26 reasonable warning” requirements of Proposition 65 one year later on October 28, 2012. Cal. Code  
27 Regs., tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 and 25249.10(b).

1           1.4.4 Englander alleges that Jofran manufactured, imported, sold and/or distributed  
2 for sale in California, stools with vinyl/PVC upholstery containing di(2-ethylhexyl)phthalate  
3 (“DEHP”) without the requisite Proposition 65 health hazard warnings.

4           1.4.5 Pursuant to Proposition 65, on October 24, 2003, California identified and  
5 listed DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP  
6 became subject to the “clear and reasonable warning” requirements of Proposition 65 one year later  
7 on October 24, 2004. Cal. Code Regs., tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 and  
8 25249.10(b).

9           TDCPP, TCEP and DEHP shall hereinafter be collectively referred to as the “Listed  
10 Chemicals.”

#### 11           1.5     **Product Description**

12           The categories of products that are covered by this Consent Judgment as to Jofran are  
13 identified on Exhibit A (hereinafter “Products”). Polyurethane foam that is supplied, shaped or  
14 manufactured for use as a component of another product, such as upholstered furniture, but which is  
15 not itself a finished product, is specifically excluded from the definition of Products and shall not be  
16 identified by Jofran on Exhibit A as a Product.

#### 17           1.6     **Notices of Violation**

18           On or about February 15, 2013, Englander issued to Jofran and certain requisite public  
19 enforcement agencies a “60-Day Notice of Violation” (“February 15, 2013 Notice”) that provided  
20 the recipients with notice of alleged violations of Proposition 65 based on the alleged failure to  
21 warn customers, consumers, and workers in California that the Products expose users to TDCPP.

22           On or about April 19, 2013, Englander issued to Jofran and certain public enforcement  
23 agencies a “Supplemental 60-Day Notice of Violation” (“April 19, 2013 Notice”) that provided the  
24 recipients with notice of alleged violations of Proposition 65 based on the alleged failure to warn  
25 customers, consumers and workers in California that the Products expose users to TDCPP and  
26 TCEP.

1 Based on further investigation, Englander has also issued a Second Supplemental 60-day  
2 notice to Jofran on July 12, 2013 (“July 12, 2013 Notice”), alleging that certain stools with  
3 vinyl/PVC upholstery contain and expose Californians to di(2-ethylhexyl)phthalate (“Phthalate  
4 Products”). DEHP and other phthalates including butyl benzyl phthalate (“BBP”) and Di-n-butyl  
5 phthalate (“DBP”) are listed under Proposition 65 as chemicals known to cause birth defects and  
6 other reproductive harm.

7 The February 15, 2013 Notice, April 19, 2013 Notice and July 12, 2013 Notice shall  
8 hereinafter collectively be referred to as the “Notices.” To the best of the Parties’ knowledge, no  
9 public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notices.

#### 10 1.7 Complaint

11 On April 30, 2013, Englander filed a Complaint in the Superior Court in and for the County  
12 of Alameda against Jofran, other defendants and Does 1 through 150, *Peter Englander v. Grand*  
13 *Basket Co., Inc., et al.*, Case No. RG 13-677613, alleging violations of Proposition 65, based in part  
14 on the alleged unwarned exposures to TDCPP contained in the Products. On July 30, 2013,  
15 Englander filed a First Amended Complaint (“Complaint”), alleging additional violations of  
16 Proposition 65 against Jofran, including unwarned exposures to TCEP. Upon entry of this Consent  
17 Judgment, the Complaint shall be deemed amended *nunc pro tunc* to include the violations of  
18 Proposition 65 alleged by Englander in the July 12, 2013 Notice.

#### 19 1.8 No Admission

20 Jofran denies the material factual and legal allegations contained in Englander’s Notices and  
21 Complaint and maintains that all products that it has manufactured, imported, distributed, and/or  
22 sold in California, including the Products, have been and are in compliance with all laws. Nothing  
23 in this Consent Judgment shall be construed as an admission by Jofran of any fact, finding,  
24 conclusion, issue of law, or violation of law, nor shall compliance with this Consent Judgment  
25 constitute or be construed as an admission by Jofran of any fact, finding, conclusion, issue of law,  
26 or violation of law. However, this section shall not diminish or otherwise affect a Jofran’s  
27 obligations, responsibilities, and duties under this Consent Judgment.

1           **1.9     Consent to Jurisdiction**

2           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
3 jurisdiction over Jofran as to the allegations contained in the Notices and Complaint, that venue is  
4 proper in the County of Alameda, and that this Court has jurisdiction to enter and enforce the  
5 provisions of this Consent Judgment pursuant to Proposition 65 and California Code of Civil  
6 Procedure § 664.6.

7           **2.     DEFINITIONS**

8           **2.1     California Customers**

9           “California Customer” shall mean any customer that Jofran reasonably understands is  
10 located in California, has a California warehouse or distribution center, maintains a retail outlet in  
11 California, or has made internet sales into California on or after January 1, 2011.

12          **2.2     Detectable**

13          “Detectable” shall mean containing more than 25 parts per million (“ppm”) (the equivalent  
14 of .0025%) of any one chemical in any material, component, or constituent of a  
15 subject product, when analyzed by a NVLAP accredited laboratory pursuant to EPA testing  
16 methodologies 3545 and 8270C, or equivalent methodologies utilized by federal or state agencies to  
17 determine the presence, and measure the quantity, of TDCPP and/or TCEP in a solid substance.

18          **2.3     Effective Date**

19          “Effective Date” shall mean October 15, 2013.

20          **2.4     Private Label Covered Products**

21          “Private Label Covered Products” means Products that bear a brand or trademark owned or  
22 licensed by a Retailer or affiliated entity that are sold or offered for sale by a Retailer in the State of  
23 California.

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1           **2.5 Reformulated Products**

2           “Reformulated Products” shall mean Products that contain no Detectable amount of TDCPP  
3 or TCEP.<sup>1</sup>

4           **2.6 Reformulation Standard**

5           The “Reformulation Standard” shall mean containing no more than 25 ppm for each of  
6 TDCPP and TCEP.<sup>2</sup>

7           **2.7 Retailer**

8           “Retailer” means an individual or entity that offers a Product for retail sale to consumers in  
9 the State of California.

10       **3. INJUNCTIVE RELIEF: REFORMULATION**

11           **3.1 Reformulation Commitment**

12           Commencing on March 31, 2014, Jofran shall not manufacture or import for distribution or  
13 sale to California Customers, or cause to be manufactured or imported for distribution or sale to  
14 California Customers, any Products that are not Reformulated Products.

15           **3.2 Vendor Notification/Certification**

16           On or before the Effective Date, Jofran shall provide written notice to all of its then-current  
17 vendors of the Products that will be sold or offered for sale in California, or to California  
18 Customers, instructing each such vendor to use reasonable efforts to provide only Reformulated  
19 Products for potential sale in California. In addressing the obligation set forth in the preceding  
20 sentence, Jofran shall not employ statements that will encourage a vendor to delay compliance with  
21 the Reformulation Standard. Jofran shall subsequently obtain written certifications, no later than  
22 April 1, 2014, from such vendors, and any newly engaged vendors, that the Products manufactured  
23 by such vendors are in compliance with the Reformulation Standard. Certifications shall be held by  
24 Jofran for at least two years after their receipt and shall be made available to Englander upon  
25 request.

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27           <sup>1</sup> The term “Reformulated Products” also includes Phthalate Products which contain no  
28 more than 1000 ppm each of DEHP, BBP, and DBP.

<sup>2</sup> The term “Reformulated Standard” further requires that the Phthalate Products contain no  
more than 1000 ppm each of DEHP, BBP, and DBP

1           **3.3 Products No Longer in Jofran's Control**

2           No later than 45 days after the Effective Date, Jofran shall send a letter, electronic or  
3 otherwise ("Notification Letter") to: (1) each California Customer and/or Retailer which it, after  
4 October 28, 2011, supplied the item for resale in California described as an exemplar in each of the  
5 Notices Jofran received from Englander ("Exemplar Product(s)"); and (2) any California Customer  
6 and/or Retailer that Jofran reasonably understands or believes had any inventory for resale in  
7 California of Exemplar Product(s) as of the relevant Notice's dates. The Notification Letter shall  
8 advise the recipient that the Exemplar Product(s) contains TDCPP and TCEP, chemicals known to  
9 the State of California to cause cancer, and/or DEHP, a chemical known to the State of California to  
10 cause birth defects and other reproductive harm, as appropriate depending on the allegations in the  
11 Notices, and request that the recipient either: (a) label the Exemplar Product(s) remaining in  
12 inventory for sale in California, or to California Customers, pursuant to Section 3.5; or (b) return, at  
13 Jofran's sole expense, all units of the Exemplar Product(s) held for sale in California, or to  
14 California Customers, to Jofran or a party Jofran has otherwise designated. The Notification Letter  
15 shall require a response from the recipient within 15 days confirming whether the Exemplar  
16 Product(s) will be labeled or returned. Jofran shall maintain records of all correspondence or other  
17 communications generated pursuant to this Section for two years after the Effective Date and shall  
18 promptly produce copies of such records upon Englander's written request.

19           **3.4 Current Inventory**

20           Any Products in, or manufactured and en route to, Jofran's inventory as of or after  
21 December 31, 2013, that do not qualify as Reformulated Products and that Jofran has reason to  
22 believe may be sold or distributed for sale in California, shall contain a clear and reasonable  
23 warning as set forth in Section 3.5 below unless Section 3.6 applies.

24           **3.5 Product Warnings**

25                   **3.5.1 Product Labeling**

26           Any warning provided under Section 3.3 or 3.4 above shall be affixed to the packaging,  
27 labeling, or directly on each Product. Each warning shall be prominently placed with such  
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1 conspicuousness as compared with other words, statements, designs, or devices as to render it likely  
2 to be read and understood by an ordinary individual under customary conditions before purchase.  
3 Each warning shall be provided in a manner such that the consumer or user understands to which  
4 specific Product the warning applies, so as to minimize the risk of consumer confusion.

5 A warning provided pursuant to this Consent Judgment shall state:

6 **WARNING:** This product contains TDCPP and  
7 TCEP, flame retardant chemicals  
8 known to the State of California to  
9 cause cancer.

10 Or, for Phthalate Products:

11 **WARNING:** This product contains DEHP, a  
12 chemical known to the State of  
13 California to cause birth defects and  
14 reproductive harm.<sup>3</sup>

15 Attached as Exhibit B are template warnings developed by Englander that are deemed to be  
16 clear and reasonable for purposes of this Consent Judgment.<sup>4</sup> Provided that the other requirements  
17 set forth in this Section are addressed, including as to the required warning statement and method of  
18 transmission as set forth above, Jofran remains free not to utilize the template warnings.

19 <sup>3</sup> The regulatory safe harbor warning language specified in 27 CCR § 25603.2 *et seq.* may  
20 also be used if Jofran had begun to use it, prior to the Effective Date. If Jofran seeks to use  
21 alternative warning language, other than the language specified above or the safe harbor warning  
22 specified in 27 CCR § 25603.2, or seeks to use an alternate method of transmission of the warning,  
23 it must obtain the Court's approval of its proposed alternative and provide all Parties and the Office  
24 of the Attorney General with timely notice and the opportunity to comment or object before the  
25 Court acts on the request. The Parties agree that the following warning language shall not be  
26 deemed to meet the requirements of 27 CCR § 25601 *et seq.* and shall not be used pursuant to this  
27 Consent Judgment: (a) "cancer or birth defects or other reproductive harm"; and (b) "cancer, birth  
28 defects or other reproductive harm."

<sup>4</sup> The characteristics of the template warnings are as follows: (a) a yellow hang tag  
measuring 3" x 5", with no less than 12 point font, with the warning language printed on each side  
of the hang tag, which shall be affixed directly to the Product; (b) a yellow warning sign measuring  
8.5" x. 11", with no less that 32 point font, with the warning language printed on each side, which  
shall be affixed directly to the Product; and (c) for Products sold at retail in a box or packaging, a  
yellow warning sticker measuring 3" x 3", with no less than 12 point font, which shall be affixed  
directly to the Product packaging.

1           **3.5.2 Internet Website Warning**

2           A warning shall be given in conjunction with the sale of the Products to California, or  
3 California Customers, via the internet, which warning shall appear on one or more web pages  
4 displayed to a purchaser during the checkout process. The following warning statement shall be  
5 used and shall: (a) appear adjacent to or immediately following the display, description, or price of  
6 the Product; (b) appear as a pop-up box; or (c) otherwise appear automatically to the customer. The  
7 warning text shall be the same type size or larger than the Product description text:

8                           **WARNING:** This product contains TDCPP and  
9   TCEP, flame retardant chemicals  
10   known to the State of California to  
  cause cancer.

11                           Or, for Phthalate Products:

12                           **WARNING:** This product contains DEHP, a  
13   chemical known to the State of  
  California to cause birth defects and  
  reproductive harm.<sup>5</sup>

14           **3.6 Alternatives to Interim Warnings**

15           The obligations of Jofran under Section 3.3 shall be relieved provided Jofran certifies on or  
16 before December 15, 2013 that only Exemplar Products meeting the Reformulation Standard will  
17 be offered for sale in California, or to California Customers for sale in California, after December  
18 31, 2013. The obligations of Jofran under Section 3.4 shall be relieved provided Jofran certifies on  
19 or before December 15, 2013 that, after June 30, 2014, it will only distribute or cause to be  
20 distributed for sale in, or sell in, California, or to California Customers for sale in California,  
21 Products (i.e., Products beyond the Exemplar Product(s)) meeting the Reformulation Standard. The  
22 certifications provided by this Section are material terms and time is of the essence.

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28           <sup>5</sup> Footnote 3, *supra*, applies in this context as well.

1     **4.     MONETARY PAYMENTS**

2             **4.1     Civil Penalties Pursuant to Health & Safety Code § 25249.7(b)**

3             In settlement of all the claims referred to in this Consent Judgment, Jofran shall pay the civil  
4 penalties shown for it on Exhibit A in accordance with this Section. Each penalty payment will be  
5 allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75%  
6 of the funds remitted to the California Office of Environmental Health Hazard Assessment  
7 (“OEHHA”), 25% of the penalty remitted to “The Chanler Group in Trust for Englander.” Each  
8 penalty payment shall be made within two business days of the date it is due and be delivered to the  
9 addresses listed in Section 4.5 below. Jofran shall be liable for payment of interest, at a rate of 10%  
10 simple interest, for all amounts due and owing under this Section that are not received within two  
11 business days of the due date.

12                     4.1.1     Initial Civil Penalty. On or before the Effective Date, Jofran shall make an  
13 initial civil penalty payment in the amount identified on Exhibit A.

14                     4.1.2     Second Civil Penalty. On or before January 15, 2014, Jofran shall make a  
15 second civil penalty payment in the amount identified on Exhibit A. The amount of the second  
16 penalty may be reduced according to any penalty waiver Jofran is eligible for under Sections  
17 4.1.4(i) and 4.1.4(iii), below.

18                     4.1.3     Third Civil Penalty. On or before November 30, 2014, Jofran shall make a  
19 third civil penalty payment in the amount identified on Exhibit A. The amount of the third penalty  
20 may be reduced according to any penalty waiver Jofran is eligible for under Sections 4.1.4(ii) and  
21 4.1.4(iv), below.

22                     4.1.4     Reductions to Civil Penalty Payment Amounts. Jofran may reduce the  
23 amount of the second and/or third civil penalty payments identified on Exhibit A by providing  
24 Englander with certification of certain efforts undertaken to reformulate their Products or limit the  
25 ongoing sale of non-reformulated Products in California. The options to provide a written  
26 certification in lieu of making a portion of a civil penalty payment constitute material terms of this  
27 Consent Judgment, and with regard to such terms, time is of the essence.

1                   4.1.4(i)    **Partial Penalty Waiver for Accelerated Reformulation of**  
2                   **Products Sold or Offered for Sale in California.**

3           If Jofran so elects on Exhibit A, a portion of the second civil penalty shall be waived, to the  
4 extent that it has agreed that, as of November 1, 2013, and continuing into the future, it shall only  
5 manufacture or import for distribution or sale to California Customers or cause to be manufactured  
6 or imported for distribution or sale to California Customers, Reformulated Products. An officer or  
7 other authorized representative of Jofran that has exercised this election shall provide Englander  
8 with a written certification confirming compliance with such conditions, which certification must  
9 be received by Englander's counsel on or before December 15, 2013.

10                   4.1.4(ii)   **Partial Penalty Waiver for Extended Reformulation.**

11           If Jofran so elects on Exhibit A, a portion of the third civil penalty shall be waived, to the  
12 extent that it has agreed that, as of March 31, 2014, and continuing into the future, it shall only  
13 manufacture or import for distribution or sale in California or cause to be manufactured or imported  
14 for distribution or sale in California, Reformulated Products which also do not contain tris(2,3-  
15 dibromopropyl)phosphate ("TDBPP") in a detectable amount of more than 25 parts per million  
16 ("ppm") (the equivalent of .0025%) in any material, component, or constituent of a subject product,  
17 when analyzed by a NVLAP accredited laboratory pursuant to EPA testing methodologies 3545 and  
18 8270C, or equivalent methodologies utilized by federal or state agencies to determine the presence,  
19 and measure the quantity, of TDBPP in a solid substance. An officer or other authorized  
20 representative of Jofran that has exercised this election shall provide Englander with a written  
21 certification confirming compliance with such conditions, which certification must be received by  
22 Englander's counsel on or before November 15, 2014.

23                   4.1.4(iii)   **Partial Penalty Waiver for Withdrawal of Unreformulated**  
24                   **Exemplar Products from the California Market.**

25           As shown on Exhibit A, a portion of the second civil penalty shall be waived, if an officer or  
26 other authorized representative of Jofran provides Englanders with written certification, by  
27 December 15, 2013, confirming that each individual or establishment in California to which it  
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1 supplied the Exemplar Product after October 28, 2011, has elected to return all remaining Exemplar  
2 Products held for sale in California.<sup>6</sup>

3 4.1.4(iv) **Partial Penalty Waiver for Termination of Distribution to**  
4 **California of Unreformulated Inventory.**

5 As shown on Exhibit A, a portion of the third civil penalty shall be waived, if an officer or  
6 other authorized representative of Jofran provides Englander with written certification, on or before  
7 November 15, 2014, confirming that, as of July 1, 2014, it has and will continue to distribute, offer  
8 for sale, or sell in California, or to California Customers, only Reformulated Products.

9 4.2 **Representations**

10 Jofran represents that the sales data and other information concerning its size, knowledge of  
11 the Listed Chemicals, and prior reformulation and/or warning efforts, it provided to Englander was  
12 truthful to its knowledge and a material factor upon which Englander has relied to determine the  
13 amount of civil penalties assessed pursuant to Health & Safety Code § 25249.7 in this Consent  
14 Judgment. If, within nine months of the Effective Date, Englander discovers and presents to Jofran,  
15 evidence demonstrating that the preceding representation and warranty was materially inaccurate,  
16 then Jofran shall have 30 days to meet and confer regarding Englander's contention. Should this 30  
17 day period pass without any such resolution between the Parties, Englander shall be entitled to file a  
18 formal legal claim including, but not limited to, a claim for damages for breach of contract.

19 Jofran further represents that in implementing the requirements set forth in Sections 3.1 and  
20 3.2 of this Consent Judgment, it will voluntarily employ commercial best efforts to achieve  
21 reformulation of its Products and Additional Products on a nationwide basis and not employ  
22 statements that will encourage a vendor to limit its compliance with the Reformulation Standard to  
23 goods intended for sale to California Consumers

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27 <sup>6</sup> For purposes of this Section, the term Exemplar Products shall further include Products for  
28 which Englander has, prior to August 31, 2013, provided Jofran with test results from a NVLAP  
accredited laboratory showing the presence of a Listed Chemical at a level in excess of 250 ppm  
pursuant to EPA testing methodologies 3545 or 8270C.

1           4.3           **Stipulated Penalties for Certain Violations of the Reformulation**  
2           **Standard.**

3           If Englander provides notice and appropriate supporting information to Jofran that levels of  
4 the Listed Chemicals in excess of the Reformulation Standard have been detected in one or more  
5 Products labeled or otherwise marked in an identifiable manner as manufactured or imported after a  
6 deadline for meeting the Reformulation Standard has arisen for Jofran under Sections 3.1 or 3.6  
7 above, Jofran may elect to pay a stipulated penalty to relieve any further potential liability under  
8 Proposition 65 or sanction under this Consent Judgment as to Products sourced from the vendor in  
9 question.<sup>7</sup> The stipulated penalty shall be \$1,500 if the violation level is below 100 ppm and \$3,000  
10 if the violation level is between 100 ppm and 249 ppm, this being applicable for any amount in  
11 excess of the Reformulation Standards but under 250 ppm.<sup>8</sup> Englander shall further be entitled to  
12 reimbursement of his associated expense in an amount not to exceed \$5,000 regardless of the  
13 stipulated penalty level. Jofran under this Section must provide notice and appropriate supporting  
14 information relating to the purchase (e.g. vendor name and contact information including  
15 representative, purchase order, certification (if any) received from vendor for the exemplar or  
16 subcategory of products), test results, and a letter from a company representative or counsel  
17 attesting to the information provided, to Englander within 30 calendar days of receiving test results  
18 from Englander's counsel. Any violation levels at or above 250 ppm shall be subject to the full  
19 remedies provided pursuant to this Consent Judgment and at law.

20           4.4           **Reimbursement of Fees and Costs**

21           The Parties acknowledge that Englander and his counsel offered to resolve this dispute  
22 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
23 this fee reimbursement issue to be resolved after the material terms of the agreement had been  
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25           <sup>7</sup> This Section shall not be applicable where the vendor in question had previously been  
26 found by Jofran to have provided unreliable certifications as to meeting the Reformulation Standard  
27 in its Products on more than one occasion. Notwithstanding the foregoing, a stipulated penalty for a  
28 second exceedance by Jofran's vendor at a level between 100 and 249 ppm shall not be available  
after July 1, 2015.

<sup>8</sup> Any stipulated penalty payments made pursuant to this Section should be allocated and  
remitted in the same manner as set forth in Sections 4.1 and 4.5, respectively.

1 settled. Shortly after the other settlement terms had been finalized, Jofran expressed a desire to  
2 resolve the fee and cost issue. Jofran then agreed to pay Englander and his counsel under general  
3 contract principles and the private attorney general doctrine codified at California Code of Civil  
4 Procedure section 1021.5 for all work performed through the mutual execution of this agreement,  
5 including the fees and costs incurred as a result of investigating, bringing this matter to Jofran's  
6 attention, negotiating a settlement in the public interest, and seeking court approval of the same. In  
7 addition, the negotiated fee and cost figure expressly includes the anticipated significant amount of  
8 time Englander's counsel will incur to monitor various provisions in this agreement over the next  
9 two years, with the exception of additional fees that may be incurred pursuant to Jofran's election in  
10 Section 11. Jofran more specifically agreed, upon the Court's approval and entry of this Consent  
11 Judgment, to pay Englander's counsel the amount of fees and costs indicated on Exhibit A. Jofran  
12 further agreed to tender and shall tender its full required payment under this Section to a trust  
13 account at The Chanler Group (made payable "In Trust for The Chanler Group") within two  
14 business days of the Effective Date. Such funds shall be released from the trust account upon the  
15 Court's approval and entry of this Consent Judgment.

16 **4.5 Payment Procedures**

17 4.5.1 Issuance of Payments.

18 (a) All payments owed to Englander and his counsel, pursuant to  
19 Sections 4.1, 4.3, and 4.4 shall be delivered to the following payment address:

20 The Chanler Group  
21 Attn: Proposition 65 Controller  
22 2560 Ninth Street  
23 Parker Plaza, Suite 214  
24 Berkeley, CA 94710

25 (b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to  
26 Section 4.1, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one  
27 of the following addresses, as appropriate:  
28

1 For United States Postal Service Delivery:

2 Mike Gyurics  
3 Fiscal Operations Branch Chief  
4 Office of Environmental Health Hazard Assessment  
5 P.O. Box 4010  
6 Sacramento, CA 95812-4010

7 For Non-United States Postal Service Delivery:

8 Mike Gyurics  
9 Fiscal Operations Branch Chief  
10 Office of Environmental Health Hazard Assessment  
11 1001 I Street  
12 Sacramento, CA 95814

13 4.5.2 Proof of Payment to OEHHA. A copy of each check payable to OEHHA  
14 shall be mailed, simultaneous with payment, to The Chanler Group at the address set forth in  
15 Section 4.5.1(a) above, as proof of payment to OEHHA.

16 4.5.3 Tax Documentation. Jofran shall issue a separate 1099 form for each  
17 payment required by this Section to: (a) Peter Englander, whose address and tax identification  
18 number shall be furnished upon request after this Consent Judgment has been fully executed by the  
19 Parties; (b) OEHHA, who shall be identified as "California Office of Environmental Health Hazard  
20 Assessment" (EIN: 68-0284436) in the 1099 form, to be delivered directly to OEHHA, P.O. Box  
21 4010, Sacramento, CA 95814; and (c) "The Chanler Group" (EIN: 94-3171522) to the address set  
22 forth in Section 4.5.1(a) above.

23 **5. CLAIMS COVERED AND RELEASED**

24 **5.1 Englander's Release of Proposition 65 Claims**

25 Englander, acting on his own behalf and in the public interest, releases Jofran, its parents,  
26 subsidiaries, affiliated entities under common ownership, directors, officers, agents employees,  
27 attorneys, and each entity to whom Jofran directly or indirectly distribute or sell Products,  
28 including, but not limited, to downstream distributors, wholesalers, customers, retailers,  
franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims for  
violations of Proposition 65 through the Effective Date based on unwarned exposures to the Listed  
Chemicals in the Products, as set forth in the Notices. Compliance with the terms of this Consent  
Judgment constitutes compliance with Proposition 65 with respect to exposures to the Listed

1 Chemicals from the Products, as set forth in the Notices. The Parties further understand and agree  
2 that this Section 5.1 release shall not extend upstream to any entities, other than Jofran, that  
3 manufactured the Products or any component parts thereof, or any distributors or suppliers who  
4 sold the Products or any component parts thereof to Jofran, except that an entity upstream of Jofran  
5 that is a Retailer of a Private Labeled Covered Product shall be released as to the Private Labeled  
6 Covered Products offered for sale in California, or to California Customers, by the Retailer in  
7 question.

8 **5.2 Englander's Individual Releases of Claims**

9 Englander, in his individual capacity only and *not* in his representative capacity, provides a  
10 release herein which shall be effective as a full and final accord and satisfaction, as a bar to all  
11 actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims,  
12 liabilities, and demands of Englander of any nature, character, or kind, whether known or unknown,  
13 suspected or unsuspected, limited to and arising out of alleged or actual exposures to TDCPP,  
14 TCEP, TDBPP, DEHP, DBP and/or BBP in the Products or Additional Products (as defined in  
15 Section 11.1 and delineated on Exhibit A) manufactured, imported, distributed, or sold by Jofran  
16 prior to the Effective Date.<sup>9</sup> The Parties further understand and agree that this Section 5.2 release  
17 shall not extend upstream to any entities that manufactured the Products or Additional Products, or  
18 any component parts thereof, or any distributors or suppliers who sold the Products or Additional  
19 Products, or any component parts thereof to Jofran, except that an entity upstream of Jofran that is a  
20 Retailer of a Private Labeled Covered (or Additional) Product shall be released as to the Private  
21 Labeled Covered (or Additional) Products offered for sale in California by the Retailer in question.  
22 Nothing in this Section affects Englander's right to commence or prosecute an action under  
23 Proposition 65 against a Releasee that does not involve Jofran's Products or Additional Products.

24  
25  
26  
27 <sup>9</sup> The injunctive relief requirements of Section 3 shall apply to Additional Products as  
28 otherwise specified.

1           **5.3     Jofran’s Release of Englander**

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

8           **6.     COURT APPROVAL**

9           This Consent Judgment is not effective until it is approved and entered by the Court and  
10 shall be null and void if, for any reason, it is not approved in its entirety and entered by the Court  
11 within one year after it has been fully executed by all Parties. If the Court does not approve the  
12 Consent Judgment, the Parties shall meet and confer as to whether to modify the language or appeal  
13 the ruling. If the Parties do not jointly agree on a course of action to take, then the case shall  
14 proceed in its normal course on the Court’s trial calendar. If the Court’s approval is ultimately  
15 overturned by an appellate court, the Parties shall meet and confer as to whether to modify the  
16 terms of this Consent Judgment. If the Parties do not jointly agree on a course of action to take,  
17 then the case shall proceed in its normal course on the Court’s trial calendar. In the event that this  
18 Consent Judgment is entered by the Court and subsequently overturned by any appellate court, any  
19 monies that have been provided to OEHHA, Englander or his counsel pursuant to Section 4, above,  
20 shall be refunded within 15 days of the appellate decision becoming final. If the Court does not  
21 approve and enter the Consent Judgment within one year of the Effective Date, any monies that  
22 have been provided to OEHHA or held in trust for Englander or his counsel pursuant to Section 4,  
23 above, shall be refunded to Jofran within 15 days.

24           **7.     GOVERNING LAW**

25           The terms of this Consent Judgment shall be governed by the laws of the State of California.  
26 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by  
27 reason of law generally, or if any of the provisions of this Consent Judgment are rendered  
28

1 inapplicable or are no longer required as a result of any such repeal or preemption, or rendered  
2 inapplicable by reason of law generally as to the Products, then Jofran may provide written notice  
3 to Englander of any asserted change in the law, and shall have no further obligations pursuant to  
4 this Consent Judgment with respect to, and to the extent that, the Products are so affected. Nothing  
5 in this Consent Judgment shall be interpreted to relieve Jofran from any obligation to comply with  
6 any pertinent state or federal law or regulation.

7 **8. NOTICES**

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

12 To Jofran:

13 At the address shown on Exhibit A

To Englander:

14 Proposition 65 Coordinator  
15 The Chanler Group  
16 2560 Ninth Street  
17 Parker Plaza, Suite 214  
18 Berkeley, CA 94710-2565

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

19 **9. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

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

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

24 Englander and his attorneys agree to comply with the reporting form requirements  
25 referenced in California Health & Safety Code § 25249.7(f).  
26  
27  
28

1 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

2 11.1 In addition to the Products, where Jofran has identified on Exhibit A additional  
3 products that contain Listed Chemicals and that are sold or offered for sale by it in California, or to  
4 California Customers (“Additional Products”), then by no later than October 15, 2013, Jofran may  
5 provide Englander with additional information or representations necessary to enable them to issue  
6 a 60-Day Notice of Violation and valid Certificate of Merit therefore, pursuant to Health & Safety  
7 Code § 25249.7, that includes the Additional Products. Polyurethane foam that is supplied, shaped  
8 or manufactured for use as a component of a product, such as upholstered furniture, is specifically  
9 excluded from the definition of Additional Products and shall not be identified by Jofran on Exhibit  
10 A as an Additional Product. Except as agreed upon by Englander, Jofran shall not include a  
11 product, as an Additional Product, that is the subject of an existing 60-day notice issued by  
12 Englander or any other private enforcer at the time of execution. After receipt of the required  
13 information, Englander agrees to issue a supplemental 60-day notice in compliance with all  
14 statutory and regulatory requirements for the Additional Products. Englander will, and in no event  
15 later than October 1, 2014, prepare and file an amendment to this Consent Judgment to incorporate  
16 the Additional Products within the defined term “Products” and serve a copy thereof and its  
17 supporting papers (including the basis for supplemental stipulated penalties, if any) on the Office of  
18 the California Attorney General upon the Court’s approval and finding that the supplemental  
19 stipulated penalty amount, if any, is reasonable, the Additional Products shall become subject to  
20 Section 5.1 in addition to Section 5.2. Jofran shall, at the time it elects to utilize this Section and  
21 tenders the additional information or representations regarding the Additional Products to  
22 Englander, tender to The Chanler Group’s trust account an amount not to exceed \$8,750 as  
23 stipulated penalties and attorneys’ fees and costs incurred by Englander in issuing the new notice  
24 and engaging in other reasonably related activities, which may be released from the trust as  
25 awarded by the Court upon Englander’s application. Any fee award associated with the  
26 modification of the Consent Judgment to include Additional Products shall not offset any associated  
27 supplemental penalty award, if any. (Any tendered funds remaining in the trust thereafter shall be  
28

1 refunded to Jofran within 15 days). Such payment shall be made to "in trust for The Chanler  
2 Group" and delivered as per Section 4.5.1(a) above.

3 11.2 Englander and Jofran agree to support the entry of this agreement as a Consent  
4 Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The  
5 Parties acknowledge that, pursuant to California Health & Safety Code § 25249.7, a noticed motion  
6 is required to obtain judicial approval of this Consent Judgment, which Englander shall draft and  
7 file. If any third party objection to the noticed motion is filed, Englander and Jofran shall work  
8 together to file a reply and appear at any hearing before the Court. This provision is a material  
9 component of the Consent Judgment and shall be treated as such in the event of a breach.

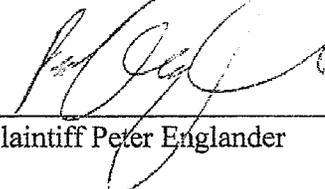
10 **12. MODIFICATION**

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

14 **13. AUTHORIZATION**

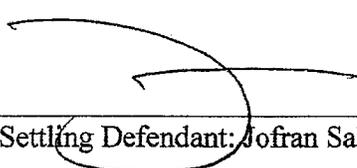
15 The undersigned are authorized to execute this Consent Judgment on behalf of their  
16 respective Parties and have read, understood, and agree to all of the terms and conditions of this  
17 Consent Judgment.

19 AGREED TO:

20   
21 \_\_\_\_\_  
22 Plaintiff Peter Englander

23 Date: October 14, 2013

AGREED TO:

20   
21 \_\_\_\_\_  
22 Settling Defendant: Jofran Sales, Inc.  
23 Joff Roy

24 Date: October 9<sup>th</sup>, 2013

1 EXHIBIT A

2 I. Name of Settling Defendant: JOFRAN SALES, INC.

3 II. Names of Releasees (optional/partial):

4 LIFESTYLE FURNITURE HOME STORE CORPORATION as to the Products sold,  
5 manufactured, imported and/or distributed by JOFRAN SALES, INC.

6 III. Types of Covered Products Applicable to Jofran Sales, Inc.: Upholstered Furniture

- 7 a) Stools with Vinyl/PVC Upholstery containing DEHP  
8 b) Upholstered Chairs with Foam Padding containing TDCPP and TCEP

9 IV. Types of Additional Products Jofran Sales, Inc. Elects to Address (if any):

10 V. Jofran Sales, Inc.'s Required Settlement Payments

11 A. Civil Penalties of \$86,000, as follows:

12 \$20,000 initial payment due on or before the Effective Date;

13 \$42,000 second payment due on or before January 15, 2014, of which  
14 \$23,000 may be waived pursuant to Section 4.1.4(i) and \$19,000 may be  
waived pursuant to Section 4.1.4(iii); and

15 \$24,000 third payment due on or before November 30, 2014, of which  
16 \$14,000 may be waived pursuant to Section 4.1.4(ii) and \$10,000 may be  
waived pursuant to Section 4.1.4(iv).

17 B. Payment to The Chanler Group for reimbursement of attorneys' fees and costs  
18 attributable to Jofran Sales, Inc.: \$42,000.

19 VI. Person(s) to receive Notices pursuant to Section 8

20 Lynn R. Levitan  
Name

21 Attorney  
Title

22 \_\_\_\_\_  
Company /Firm Name

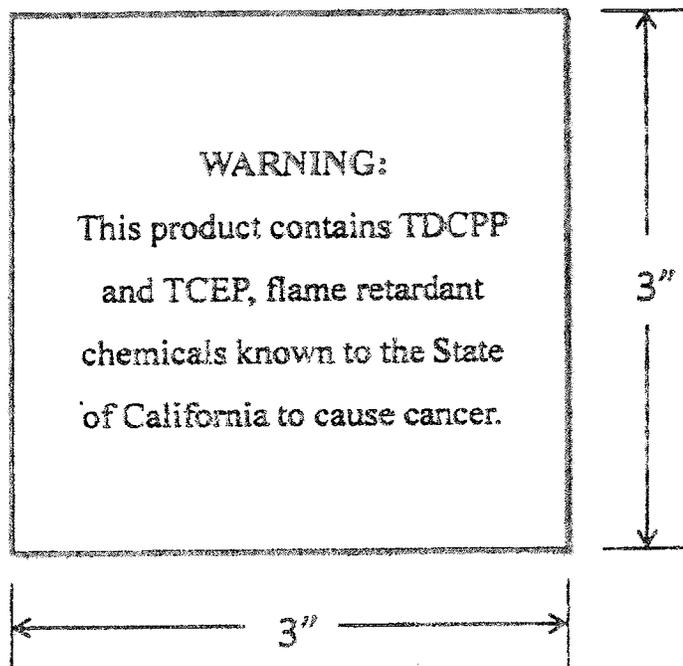
23 Address Crowell & Moring LLP

24 515 South Flower Street, 40<sup>th</sup> Floor

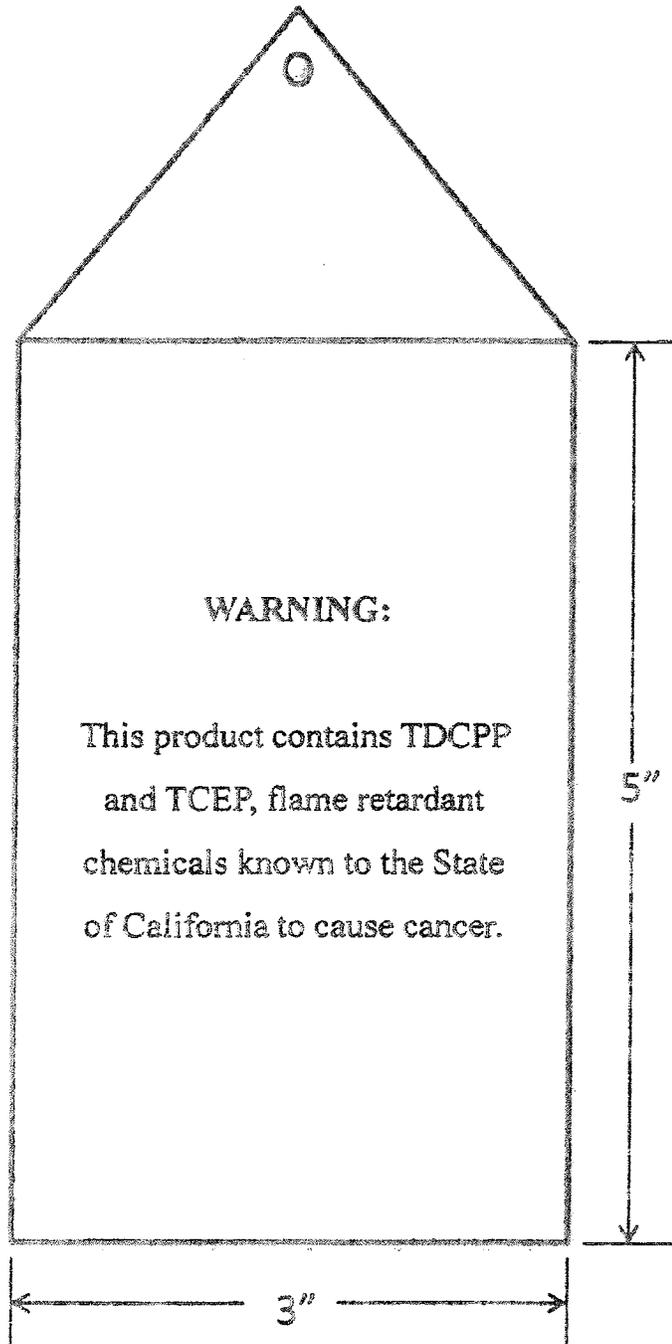
25 Los Angeles, CA 90071  
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EXHIBIT B  
(ILLUSTRATIVE WARNINGS)



**INSTRUCTIONS:** Minimum 12 pt. font. "WARNING:" text must be bold.

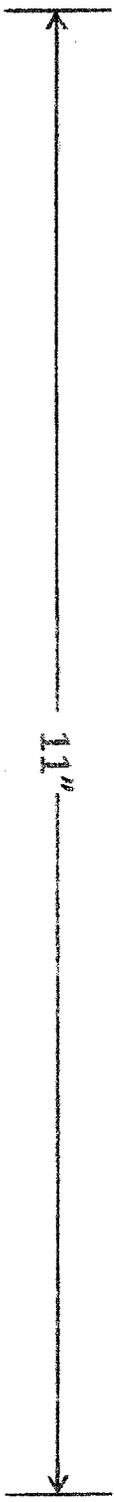


**INSTRUCTIONS:** Print warning on each side of hang tag.  
Minimum 12 pt. font. "WARNING:" text must be bold.

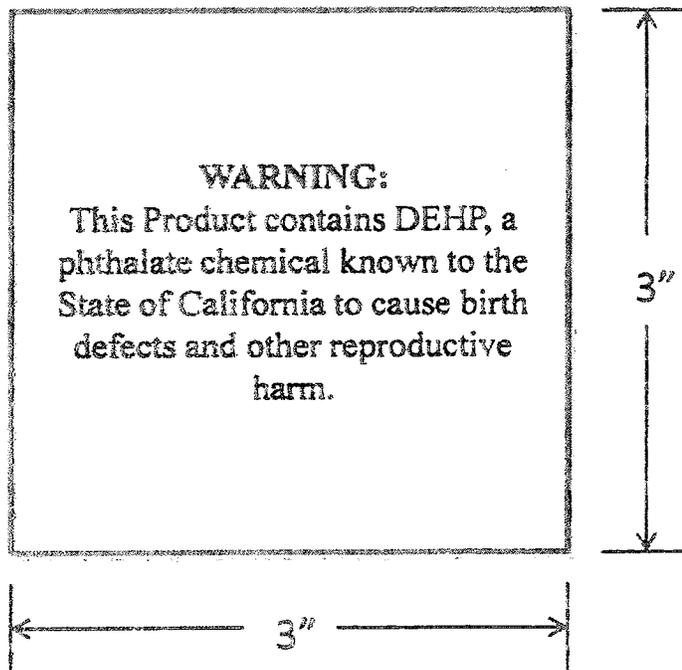
**WARNING:**

This product contains TDCPP and TCDFP, flame 8.5"

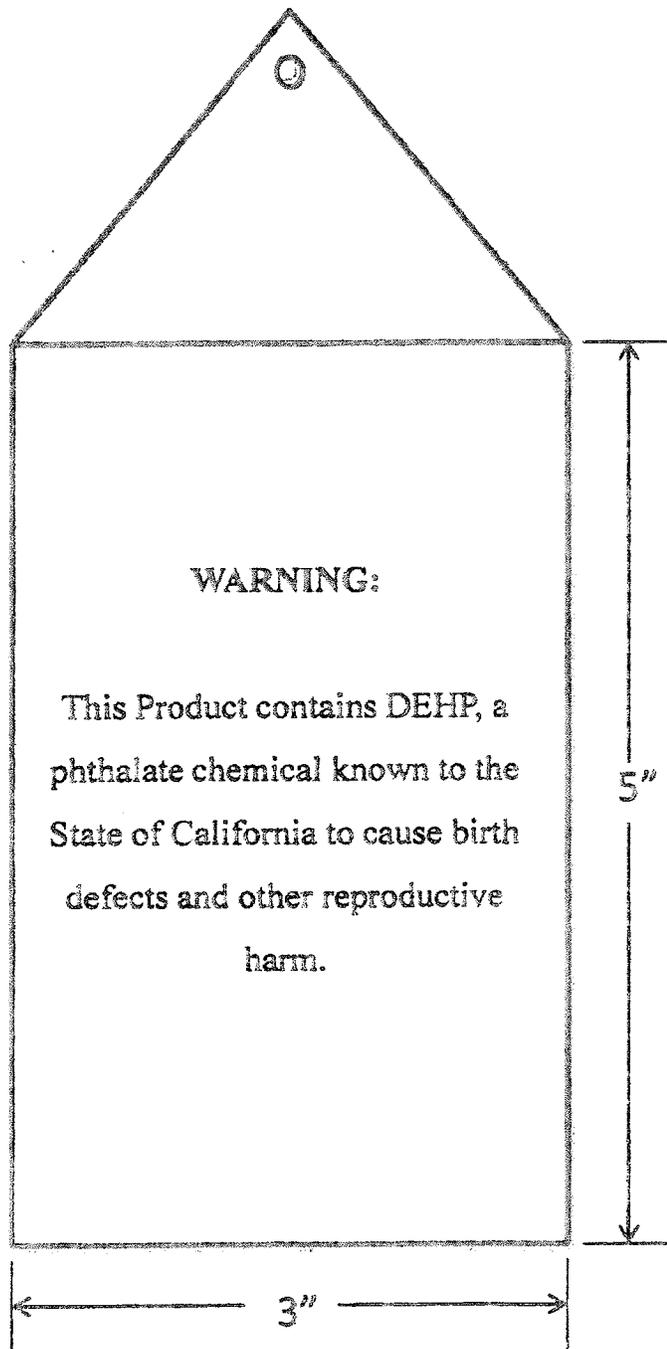
retardant chemicals known to the State of  
California to cause cancer.



**INSTRUCTIONS:** Minimum 32 pt. Font. "WARNING:" text must be bold and underlined.



**INSTRUCTIONS:** Minimum 12 pt. font. "WARNING:" text must be bold.



**INSTRUCTIONS:** Print warning on each side of hang tag.  
Minimum 12 pt. font. "WARNING:" text must be bold.

**WARNING:**

This Product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

8.5"

11"

**INSTRUCTIONS:**

Minimum 3/2 pt. Font. "WARNING:" text must be bold and underlined.

**Exhibit 2**  
**(To Judgment)**



1     **1. INTRODUCTION**

2             **1.1 Parties**

3             This Consent Judgment is entered into by and between plaintiff Peter Englander  
4 (“Englander”) and Riverside Furniture Corporation (“Riverside”), with Plaintiff and Riverside  
5 collectively referred to as the “Parties.”

6             **1.2 Peter Englander**

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

10            **1.3 Riverside Furniture Corporation**

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

14            **1.4 General Allegations**

15            1.4.1 Englander alleges that Riverside manufactured, imported, sold and/or  
16 distributed for sale in California, products with foam cushioned components containing tris(1,3-  
17 dichloro-2-propyl) phosphate (“TDCPP”) without the requisite Proposition 65 health hazard  
18 warnings.

19            1.4.2 Pursuant to Proposition 65, on October 28, 2011, California identified and  
20 listed TDCPP as a chemical known to cause cancer. TDCPP became subject to the “clear and  
21 reasonable warning” requirements of Proposition 65 one year later on October 28, 2012. Cal. Code  
22 Regs., tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 and 25249.10(b). Englander alleges  
23 that TDCPP escapes from foam padding, leading to human exposures.

24            **1.5 Product Description**

25            The categories of products that are covered by this Consent Judgment as to Riverside are  
26 identified on Exhibit A (hereinafter “Products”). Polyurethane foam that is supplied, shaped or  
27 manufactured for use as a component of another product, such as upholstered furniture, but which is  
28

1 not itself a finished product, is specifically excluded from the definition of Products and shall not be  
2 identified by Riverside on Exhibit A as a Product.

3 **1.6 Notice of Violation**

4 On or about February 8, 2013, Englander issued to Riverside and certain requisite public  
5 enforcement agencies a “60-Day Notice of Violation” (“Notice”) that provided the recipients with  
6 notice of alleged violations of Proposition 65 based on the alleged failure to warn customers,  
7 consumers, and workers in California that the Products expose users to TDCPP. To the best of the  
8 Parties’ knowledge, no public enforcer has commenced or is diligently prosecuting the allegations  
9 set forth in the Notice.

10 **1.7 Complaint**

11 On April 30, 2013, Englander filed a Complaint in the Superior Court in and for the County  
12 of Alameda against Grand Basket Co., Inc., Riverside and Does 1 through 150, *Peter Englander v.*  
13 *Grand Basket Co., Inc., et al.*, Case No. RG 13677613, alleging violations of Proposition 65, based  
14 in part on the alleged unwarned exposures to TDCPP contained in the Products.

15 **1.8 No Admission**

16 Riverside denies the material factual and legal allegations contained in Englander’s Notice  
17 and Complaint and maintains that all products that it has manufactured, imported, distributed,  
18 and/or sold in California, including the Products, have been and are in compliance with all laws.  
19 Nothing in this Consent Judgment shall be construed as an admission by Riverside of any fact,  
20 finding, conclusion, issue of law, or violation of law, nor shall compliance with this Consent  
21 Judgment constitute or be construed as an admission by Riverside of any fact, finding, conclusion,  
22 issue of law, or violation of law. However, this section shall not diminish or otherwise affect  
23 Riverside’s obligations, responsibilities, and duties under this Consent Judgment.

24 **1.9 Consent to Jurisdiction**

25 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
26 jurisdiction over Riverside as to the allegations contained in the Notice and Complaint, that venue is  
27 proper in the County of Alameda, and that this Court has jurisdiction to enter and enforce the  
28

1 provisions of this Consent Judgment pursuant to Proposition 65 and California Code of Civil  
2 Procedure § 664.6.

3 **2. DEFINITIONS**

4 **2.1 California Customers**

5 “California Customer” shall mean any customer that Riverside reasonably understands is  
6 located in California, has a California warehouse or distribution center, maintains a retail outlet in  
7 California, or has made internet sales into California on or after January 1, 2011.

8 **2.2 Detectable**

9 “Detectable” shall mean containing more than 25 parts per million (“ppm”) (the equivalent  
10 of .0025%) of any one chemical in any material, component, or constituent of a  
11 subject product, when analyzed by an accredited laboratory pursuant to EPA testing methodologies  
12 3545 and 8270C, or equivalent methodologies utilized by federal or state agencies to determine the  
13 presence, and measure the quantity, of TDCPP and/or tris(2-chloroethyl) phosphate (“TCEP”) in a  
14 solid substance.

15 **2.3 Effective Date**

16 “Effective Date” shall mean November 1, 2013.

17 **2.4 Reformulated Products**

18 “Reformulated Products” shall mean Products that contain no Detectable amount of TDCPP  
19 and TCEP.

20 **2.5 Reformulation Standard**

21 The “Reformulation Standard” shall mean containing no more than 25 ppm for each of  
22 TDCPP and TCEP.

23 **2.6 Retailer**

24 “Retailer” means an individual or entity that offers a Product for retail sale to consumers in  
25 the State of California.

26  
27  
28

1     **3.     INJUNCTIVE RELIEF: REFORMULATION**

2             **3.1     Reformulation Commitment**

3             Commencing on March 31, 2014, Riverside shall not manufacture or import for distribution  
4 or sale to California Customers, or cause to be manufactured or imported for distribution or sale to  
5 California Customers, any Products that are not Reformulated Products.

6             **3.2     Vendor Notification/Certification**

7             On or before the Effective Date, Riverside shall provide written notice to all of its then-  
8 current vendors of the Products that will be sold or offered for sale in California, or to California  
9 Customers, instructing each such vendor to use reasonable efforts to provide only Reformulated  
10 Products for potential sale in California. In addressing the obligation set forth in the preceding  
11 sentence, Riverside shall not employ statements that will encourage a vendor to delay compliance  
12 with the Reformulation Standard. Riverside shall subsequently obtain written certifications, no  
13 later than April 1, 2014, from such vendors, and any newly engaged vendors, that the Products  
14 manufactured by such vendors are in compliance with the Reformulation Standard. Certifications  
15 shall be held by Riverside for at least two years after their receipt and shall be made available to  
16 Englander upon request.

17             **3.3     Products No Longer in Riverside's Control**

18             No later than 45 days after the Effective Date, Riverside shall send a letter, electronic or  
19 otherwise ("Notification Letter") to: (1) each California Customer and/or Retailer which it, after  
20 October 28, 2011, supplied the item for resale in California described as an exemplar in the Notice  
21 Riverside received from Englander ("Exemplar Product(s)"); and (2) any California Customer  
22 and/or Retailer that Englander reasonably understands or believes had any inventory for resale in  
23 California of Exemplar Product(s) as of the relevant Notice's date. The Notification Letter shall  
24 advise the recipient that the Exemplar Product(s) contains TDCPP, a chemical known to the State of  
25 California to cause cancer, and request that the recipient either: (a) label the Exemplar Product(s)  
26 remaining in inventory for sale in California, or to California Customers, pursuant to Section 3.5; or  
27 (b) return, at Riverside's sole expense, all units of the Exemplar Product(s) held for sale in  
28

1 California, or to California Customers, to Riverside or a party Riverside has otherwise designated.  
2 The Notification Letter shall require a response from the recipient within 15 days confirming  
3 whether the Exemplar Product(s) will be labeled or returned. Riverside shall maintain records of all  
4 correspondence or other communications generated pursuant to this Section for two years after the  
5 Effective Date and shall promptly produce copies of such records upon Englander's written request.

### 6 3.4 Current Inventory

7 Any Products in, or manufactured and en route to, Riverside's inventory as of or after  
8 December 31, 2013, that do not qualify as Reformulated Products and that Riverside has reason to  
9 believe may be sold or distributed for sale in California, shall contain a clear and reasonable  
10 warning as set forth in Section 3.5 below unless Section 3.6 applies.

### 11 3.5 Product Warnings

#### 12 3.5.1 Product Labeling

13 Any warning provided under Section 3.3 or 3.4 above shall be affixed to the packaging,  
14 labeling, or directly on each Product. Each warning shall be prominently placed with such  
15 conspicuousness as compared with other words, statements, designs, or devices as to render it likely  
16 to be read and understood by an ordinary individual under customary conditions before purchase.  
17 Each warning shall be provided in a manner such that the consumer or user understands to which  
18 specific Product the warning applies, so as to minimize the risk of consumer confusion.

19 A warning provided pursuant to this Consent Judgment shall state:

20 **WARNING:** This product contains TDCPP, a flame  
21 retardant chemical known to the State  
22 of California to cause cancer.<sup>1</sup>

23 <sup>1</sup> The regulatory safe harbor warning language specified in 27 CCR § 25603.2 may also be  
24 used if Riverside had begun to use it, prior to the Effective Date. If Riverside seeks to use  
25 alternative warning language, other than the language specified above or the safe harbor warning  
26 specified in 27 CCR § 25603.2, or seeks to use an alternate method of transmission of the warning,  
27 it must obtain the Court's approval of its proposed alternative and provide all Parties and the Office  
28 of the Attorney General with timely notice and the opportunity to comment or object before the  
Court acts on the request. The Parties agree that the following warning language shall not be  
deemed to meet the requirements of 27 CCR § 25601 *et seq.* and shall not be used pursuant to this  
Consent Judgment: (a) "cancer or birth defects or other reproductive harm"; and (b) "cancer, birth  
defects or other reproductive harm."

1 Attached as Exhibit B are template warnings developed by Englander that are deemed to be  
2 clear and reasonable for purposes of this Consent Judgment.<sup>2</sup> Provided that the other requirements  
3 set forth in this Section are addressed, including as to the required warning statement and method of  
4 transmission as set forth above, Riverside remains free not to utilize the template warnings.

### 5 3.5.2 Internet Website Warning

6 A warning shall be given in conjunction with the sale of the Products to California, or  
7 California Customers, via the internet, which warning shall appear on one or more web pages  
8 displayed to a purchaser during the checkout process. The following warning statement shall be  
9 used and shall: (a) appear adjacent to or immediately following the display, description, or price of  
10 the Product; (b) appear as a pop-up box; or (c) otherwise appear automatically to the customer. The  
11 warning text shall be the same type size or larger than the Product description text:

12 **WARNING:** This product contains TDCPP, a flame  
13 retardant chemical known to the State  
if California to cause cancer.<sup>3</sup>

### 14 3.6 Alternatives to Interim Warnings

15 Riverside's obligations under Section 3.3 shall be relieved provided Riverside certifies on or  
16 before December 15, 2013 that only Exemplar Products meeting the Reformulation Standard will  
17 be offered for sale in California, or to California Customers for sale in California, after December  
18 31, 2013. The obligations of Riverside under Section 3.4 shall be relieved provided Riverside  
19 certifies on or before December 15, 2013 that, after June 30, 2014, it will only distribute or cause to  
20 be distributed for sale in, or sell in, California, or to California Customers for sale in California,  
21 Products (i.e., Products beyond the Exemplar Product(s)) meeting the Reformulation Standard. The  
22 certifications provided by this Section are material terms and time is of the essence.

23  
24 <sup>2</sup> The characteristics of the template warnings are as follows: (a) a yellow hang tag  
25 measuring 3" x 5", with no less than 12 point font, with the warning language printed on each side  
26 of the hang tag, which shall be affixed directly to the Product; (b) a yellow warning sign measuring  
27 8.5" x 11", with no less than 32 point font, with the warning language printed on each side, which  
shall be affixed directly to the Product; and (c) for Products sold at retail in a box or packaging, a  
yellow warning sticker measuring 3" x 3", with no less than 12 point font, which shall be affixed  
directly to the Product packaging.

28 <sup>3</sup> Footnote 1, *supra*, applies in this context as well.

1     **4.     MONETARY PAYMENTS**

2             **4.1     Civil Penalties Pursuant to Health & Safety Code § 25249.7(b)**

3             In settlement of all the claims referred to in this Consent Judgment, Riverside shall pay the  
4     civil penalties shown for it on Exhibit A in accordance with this Section. Each penalty payment  
5     will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d),  
6     with 75% of the funds remitted to the California Office of Environmental Health Hazard  
7     Assessment (“OEHHA”), 25% of the penalty remitted to “The Chanler Group in Trust for Peter  
8     Englander.” Each penalty payment shall be made within two business days of the date it is due and  
9     be delivered to the addresses listed in Section 4.5 below. Riverside shall be liable for payment of  
10    interest, at a rate of 10% simple interest, for all amounts due and owing under this Section that are  
11    not received within two business days of the due date.

12                 4.1.1    Initial Civil Penalty. On or before the Effective Date, Riverside shall make  
13    an initial civil penalty payment in the amount identified on Exhibit A.

14                 4.1.2    Second Civil Penalty. On or before January 15, 2014, Riverside shall make a  
15    second civil penalty payment in the amount identified on Exhibit A. The amount of the second  
16    penalty may be reduced according to any penalty waiver Riverside is eligible for under Sections  
17    4.1.4(i) and 4.1.4(iii), below.

18                 4.1.3    Third Civil Penalty. On or before November 30, 2014, Riverside shall make  
19    a third civil penalty payment in the amount identified on Exhibit A. The amount of the third  
20    penalty may be reduced according to any penalty waiver Riverside is eligible for under Sections  
21    4.1.4(ii) and 4.1.4(iv), below.

22                 4.1.4    Reductions to Civil Penalty Payment Amounts. Riverside may reduce the  
23    amount of the second and/or third civil penalty payments identified on Exhibit A by providing  
24    Englander with certification of certain efforts undertaken to reformulate their Products or limit the  
25    ongoing sale of non-reformulated Products in California. The options to provide a written  
26    certification in lieu of making a portion of a civil penalty payment constitute material terms of this  
27    Consent Judgment, and with regard to such terms, time is of the essence.

28

1                                   4.1.4(i)   **Partial Penalty Waiver for Accelerated Reformulation of**  
2                                   **Products Sold or Offered for Sale in California.**

3                   If Riverside so elects on Exhibit A, a portion of the second civil penalty shall be waived, to  
4 the extent that it has agreed that, as of November 1, 2013, and continuing into the future, it shall  
5 only manufacture or import for distribution or sale to California Customers or cause to be  
6 manufactured or imported for distribution or sale to California Customers, Reformulated Products.  
7 If this option is exercised, an officer or other authorized representative of Riverside shall provide  
8 Englander with a written certification confirming compliance with such conditions, which  
9 certification must be received by Englander's counsel on or before December 15, 2013.

10                                   4.1.4(ii)   **Partial Penalty Waiver for Extended Reformulation.**

11                   If Riverside so elects on Exhibit A, a portion of the third civil penalty shall be waived, to the  
12 extent that it has agreed that, as of March 31, 2014, and continuing into the future, it shall only  
13 manufacture or import for distribution or sale in California or cause to be manufactured or imported  
14 for distribution or sale in California, Reformulated Products which also do not contain tris(2,3-  
15 dibromopropyl)phosphate ("TDBPP") in a detectable amount of more than 25 parts per million  
16 ("ppm") (the equivalent of .0025%) in any material, component, or constituent of a subject product,  
17 when analyzed by an accredited laboratory pursuant to EPA testing methodologies 3545 and  
18 8270C, or equivalent methodologies utilized by federal or state agencies to determine the presence,  
19 and measure the quantity, of TDBPP in a solid substance. If this option is exercised, an officer or  
20 other authorized representative of Riverside shall provide Englander with a written certification  
21 confirming compliance with such conditions, which certification must be received by Englander's  
22 counsel on or before November 15, 2014.

1                                   4.1.4(iii) **Partial Penalty Waiver for Withdrawal of Unreformulated**  
2                                   **Exemplar Products from the California Market.**

3                   As shown on Exhibit A, a portion of the second civil penalty shall be waived, if an officer or  
4 other authorized representative of Riverside provides Englanders with written certification, by  
5 December 15, 2013, confirming that each individual or establishment in California to which it  
6 supplied the Exemplar Product after October 28, 2011, has elected to return all remaining Exemplar  
7 Products held for sale in California.

8                                   4.1.4(iv) **Partial Penalty Waiver for Termination of Distribution to**  
9                                   **California of Unreformulated Inventory.**

10                   As shown on Exhibit A, a portion of the third civil penalty shall be waived, if an officer or  
11 other authorized representative of Riverside provides Englander with written certification, on or  
12 before November 15, 2014, confirming that, as of July 1, 2014, it has and will continue to  
13 distribute, offer for sale, or sell in California, or to California Customers, only Reformulated  
14 Products.

15                   **4.2 Representations**

16                   Riverside represents that the sales data and other information concerning its size, knowledge  
17 of TDCPP, and prior reformulation and/or warning efforts, it provided to Englander was truthful to  
18 its knowledge and a material factor upon which Englander has relied to determine the amount of  
19 civil penalties assessed pursuant to Health & Safety Code § 25249.7 in this Consent Judgment. If,  
20 within nine months of the Effective Date, Englander discovers and presents to Riverside, evidence  
21 demonstrating that the preceding representation and warranty was materially inaccurate, then  
22 Riverside shall have 30 days to meet and confer regarding Englander's contention. Should this 30  
23 day period pass without any such resolution between the Parties, Englander shall be entitled to file a  
24 formal legal claim including, but not limited to, a claim for damages for breach of contract.

25                   Riverside further represents that in implementing the requirements set forth in Sections 3.1  
26 and 3.2 of this Consent Judgment, it will voluntarily employ commercial best efforts to achieve  
27 reformulation of its Products on a nationwide basis and not employ statements that will encourage a  
28

1 vendor to limit its compliance with the Reformulation Standard to goods intended for sale to  
2 California Consumers.

3 **4.3 Stipulated Penalties for Certain Violations of the Reformulation Standard.**

4 If Englander provides notice and appropriate supporting information to Riverside that levels  
5 of TDCPP and/or TCEP in excess of the Reformulation Standard have been detected in one or more  
6 Products labeled or otherwise marked in an identifiable manner as manufactured or imported after a  
7 deadline for meeting the Reformulation Standard has arisen for Riverside under Sections 3.1 or 3.6  
8 above, Riverside may elect to pay a stipulated penalty to relieve any further potential liability under  
9 Proposition 65 or sanction under this Consent Judgment as to Products sourced from the vendor in  
10 question.<sup>4</sup> The stipulated penalty shall be \$1,500 if the violation level is below 100 ppm and \$3,000  
11 if the violation level is between 100 ppm and 249 ppm, this being applicable for any amount in  
12 excess of the Reformulation Standards but under 250 ppm.<sup>5</sup> Englander shall further be entitled to  
13 reimbursement of his associated expense in an amount not to exceed \$5,000 regardless of the  
14 stipulated penalty level. Riverside under this Section must provide notice and appropriate  
15 supporting information relating to the purchase (e.g. vendor name and contact information  
16 including representative, purchase order, certification (if any) received from vendor for the  
17 exemplar or subcategory of products), test results, and a letter from a company representative or  
18 counsel attesting to the information provided, to Englander within 30 calendar days of receiving test  
19 results from Englander's counsel. Any violation levels at or above 250 ppm shall be subject to the  
20 full remedies provided pursuant to this Consent Judgment and at law.

21 **4.4 Reimbursement of Fees and Costs**

22 The Parties acknowledge that Englander and his counsel offered to resolve this dispute  
23 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
24

---

25 <sup>4</sup> This Section shall not be applicable where the vendor in question had previously been  
26 found by Riverside to have provided unreliable certifications as to meeting the Reformulation  
27 Standard in its Products on more than one occasion. Notwithstanding the foregoing, a stipulated  
28 penalty for a second exceedance by Riverside's vendor at a level between 100 and 249 ppm shall  
not be available after July 1, 2015.

<sup>5</sup> Any stipulated penalty payments made pursuant to this Section should be allocated and  
remitted in the same manner as set forth in Sections 4.1 and 4.5, respectively.

1 this fee reimbursement issue to be resolved after the material terms of the agreement had been  
2 settled. Shortly after the other settlement terms had been finalized, Riverside expressed a desire to  
3 resolve the fee and cost issue. Riverside then agreed to pay Englander and his counsel under  
4 general contract principles and the private attorney general doctrine codified at California Code of  
5 Civil Procedure section 1021.5 for all work performed through the mutual execution of this  
6 agreement, including the fees and costs incurred as a result of investigating, bringing this matter to  
7 Riverside's attention, negotiating a settlement in the public interest, and seeking court approval of  
8 the same. In addition, the negotiated fee and cost figure expressly includes the anticipated  
9 significant amount of time Englander's counsel will incur to monitor various provisions in this  
10 agreement over the next two years. Riverside more specifically agreed, upon the Court's approval  
11 and entry of this Consent Judgment, to pay Englander's counsel the amount of fees and costs  
12 indicated on Exhibit A. Riverside further agreed to tender and shall tender its full required payment  
13 under this Section to a trust account at The Chanler Group (made payable "In Trust for The Chanler  
14 Group") within two business days of the Effective Date. Such funds shall be released from the trust  
15 account upon the Court's approval and entry of this Consent Judgment.

16 **4.5 Payment Procedures**

17 **4.5.1 Issuance of Payments.**

18 (a) All payments owed to Englander and his counsel, pursuant to  
19 Sections 4.1, 4.3, and 4.4 shall be delivered to the following payment address:

20 The Chanler Group  
21 Attn: Proposition 65 Controller  
22 2560 Ninth Street  
23 Parker Plaza, Suite 214  
24 Berkeley, CA 94710  
25  
26  
27  
28

1 (b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to  
2 Section 4.1, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one  
3 of the following addresses, as appropriate:

4 For United States Postal Service Delivery:

5 Mike Gyurics  
6 Fiscal Operations Branch Chief  
7 Office of Environmental Health Hazard Assessment  
8 P.O. Box 4010  
9 Sacramento, CA 95812-4010

8 For Non-United States Postal Service Delivery:

9 Mike Gyurics  
10 Fiscal Operations Branch Chief  
11 Office of Environmental Health Hazard Assessment  
12 1001 I Street  
13 Sacramento, CA 95814

12 4.5.2 Proof of Payment to OEHHA. A copy of each check payable to OEHHA  
13 shall be mailed, simultaneous with payment, to The Chanler Group at the address set forth in  
14 Section 4.5.1(a) above, as proof of payment to OEHHA.

15 4.5.3 Tax Documentation. Riverside shall issue a separate 1099 form for each  
16 payment required by this Section to: (a) Peter Englander, whose address and tax identification  
17 number shall be furnished upon request after this Consent Judgment has been fully executed by the  
18 Parties; (b) OEHHA, who shall be identified as "California Office of Environmental Health Hazard  
19 Assessment" (EIN: 68-0284486) in the 1099 form, to be delivered directly to OEHHA, P.O. Box  
20 4010, Sacramento, CA 95814; and (c) "The Chanler Group" (EIN: 94-3171522) to the address set  
21 forth in Section 4.5.1(a) above.

22 **5. CLAIMS COVERED AND RELEASED**

23 **5.1 Englander's Release of Proposition 65 Claims**

24 Englander, acting on his own behalf and in the public interest, releases Riverside, its  
25 parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents  
26 employees, attorneys, and each entity to whom Riverside directly or indirectly distribute or sell  
27 Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers,  
28

1 franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims for  
2 violations of Proposition 65 through the Effective Date based on unwarned exposures to TDCPP in  
3 the Products, as set forth in the Notice. Compliance with the terms of this Consent Judgment  
4 constitutes compliance with Proposition 65 with respect to exposures to TDCPP from the Products,  
5 as set forth in the Notice. The Parties further understand and agree that this Section 5.1 release shall  
6 not extend upstream to any entities, other than Riverside, that manufactured the Products or any  
7 component parts thereof, or any distributors or suppliers who sold the Products or any component  
8 parts thereof to Riverside.

9 **5.2 Englander's Individual Releases of Claims**

10 Englander, in his individual capacity only and *not* in his representative capacity, provides a  
11 release herein which shall be effective as a full and final accord and satisfaction, as a bar to all  
12 actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims,  
13 liabilities, and demands of Englander of any nature, character, or kind, whether known or unknown,  
14 suspected or unsuspected, limited to and arising out of alleged or actual exposures to TDCPP,  
15 TCEP, TDBPP in the Products manufactured, imported, distributed, or sold by Riverside prior to  
16 the Effective Date. The Parties further understand and agree that this Section 5.2 release shall not  
17 extend upstream to any entities that manufactured the Products or any component parts thereof, or  
18 any distributors or suppliers who sold the Products or any component parts thereof to Riverside.  
19 Nothing in this Section affects Englander's right to commence or prosecute an action under  
20 Proposition 65 against a Releasee that does not involve Riverside's Products.

21 **5.3 Riverside's Release of Englander**

22 Riverside, on behalf of itself, its past and current agents, representatives, attorneys,  
23 successors, and assignees, hereby waives any and all claims against Englander and his attorneys and  
24 other representatives, for any and all actions taken or statements made (or those that could have  
25 been taken or made) by Englander and his attorneys and other representatives, whether in the course  
26 of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with  
27 respect to the Products.  
28

1       **6. COURT APPROVAL**

2           This Consent Judgment is not effective until it is approved and entered by the Court and  
3 shall be null and void if, for any reason, it is not approved in its entirety and entered by the Court  
4 within one year after it has been fully executed by all Parties. If the Court does not approve the  
5 Consent Judgment, the Parties shall meet and confer as to whether to modify the language or appeal  
6 the ruling. If the Parties do not jointly agree on a course of action to take, then the case shall  
7 proceed in its normal course on the Court's trial calendar. If the Court's approval is ultimately  
8 overturned by an appellate court, the Parties shall meet and confer as to whether to modify the  
9 terms of this Consent Judgment. If the Parties do not jointly agree on a course of action to take,  
10 then the case shall proceed in its normal course on the Court's trial calendar. In the event that this  
11 Consent Judgment is entered by the Court and subsequently overturned by any appellate court, any  
12 monies that have been provided to OEHHA, Englander or his counsel pursuant to Section 4, above,  
13 shall be refunded within 15 days of the appellate decision becoming final. If the Court does not  
14 approve and enter the Consent Judgment within one year of the Effective Date, any monies that  
15 have been provided to OEHHA or held in trust for Englander or his counsel pursuant to Section 4,  
16 above, shall be refunded to Riverside within 15 days.

17       **7. GOVERNING LAW**

18           The terms of this Consent Judgment shall be governed by the laws of the State of California.  
19 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by  
20 reason of law generally, or if any of the provisions of this Consent Judgment are rendered  
21 inapplicable or are no longer required as a result of any such repeal or preemption, or rendered  
22 inapplicable by reason of law generally as to the Products, then Riverside may provide written  
23 notice to Englander of any asserted change in the law, and shall have no further obligations  
24 pursuant to this Consent Judgment with respect to, and to the extent that, the Products are so  
25 affected. Nothing in this Consent Judgment shall be interpreted to relieve Riverside from any  
26 obligation to comply with any pertinent state or federal law or regulation.

27  
28

1 **8. NOTICES**

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

6 To Riverside:

7 At the address shown on Exhibit A

To Englander:

8 Proposition 65 Coordinator  
9 The Chanler Group  
10 2560 Ninth Street  
11 Parker Plaza, Suite 214  
12 Berkeley, CA 94710-2565

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

15 **9. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

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

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

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

22 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

23 Englander and Riverside agree to support the entry of this agreement as a Consent Judgment  
24 and obtain approval of the Consent Judgment by the Court in a timely manner. The Parties  
25 acknowledge that, pursuant to California Health & Safety Code § 25249.7, a noticed motion is  
26 required to obtain judicial approval of this Consent Judgment, which Englander shall draft and file.  
27 If any third party objection to the noticed motion is filed, Englander and Riverside shall work  
28 together to file a reply and appear at any hearing before the Court. This provision is a material  
component of the Consent Judgment and shall be treated as such in the event of a breach.

1 **12. MODIFICATION**

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

5 **13. AUTHORIZATION**

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

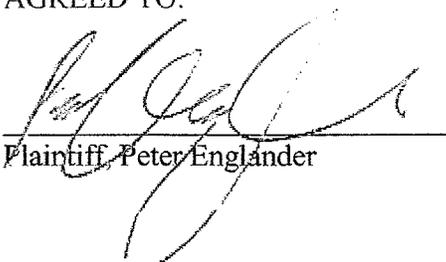
9

10 AGREED TO:

AGREED TO:

11

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13   
Plaintiff, Peter Englander

Defendant, Riverside Furniture Corporation

14

15 Date: November 8, 2013

Date: October \_\_, 2013

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1 together to file a reply and appear at any hearing before the Court. This provision is a material  
2 component of the Consent Judgment and shall be treated as such in the event of a breach.

3 **12. MODIFICATION**

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

7 **13. AUTHORIZATION**

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

11  
12 AGREED TO:

AGREED TO:

13

14

\_\_\_\_\_  
Plaintiff, Peter Englander

  
\_\_\_\_\_  
Defendant, Riverside Furniture Corporation

15

16

Date: October \_\_, 2013

Date: October 29, 2013

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1 EXHIBIT A

2 I. Name of Settling Defendant: RIVERSIDE FURNITURE CORPORATION

3 II. Names of Releasees (optional/partial):

4 CRAZY BERNIE as to the Products manufactured, imported, distributed, and/or sold by  
5 RIVERSIDE FURNITURE CORPORATION

6 III. Types of Covered Products Applicable to Riverside Furniture Corporation:

7 Padded upholstered furniture including chairs containing TDCPP

8 IV. Types of Additional Products Riverside Furniture Corporation Elects to Address (if  
9 any):

10 V. Riverside Furniture Corporation's Required Settlement Payments

11 A. Penalties of \$86,000, as follows:

12 \$20,000 initial payment due on or before the Effective Date;

13 \$42,000 second payment due on or before January 15, 2014, of which  
14 \$23,000 may be waived pursuant to Section 4.1.4(i) and \$19,000 may be  
waived pursuant to Section 4.1.4(iii); and

15 \$24,000 third payment due on or before November 30, 2014, of which  
16 \$14,000 may be waived pursuant to Section 4.1.4(ii) and \$10,000 may be  
waived pursuant to Section 4.1.4(iv).

17 B. Payment to The Chanler Group for reimbursement of attorneys' fees and costs  
18 attributable to Riverside Furniture Corporation.: \$45,000.

19 VI. Person(s) to receive Notices pursuant to Section 8

20 Name:

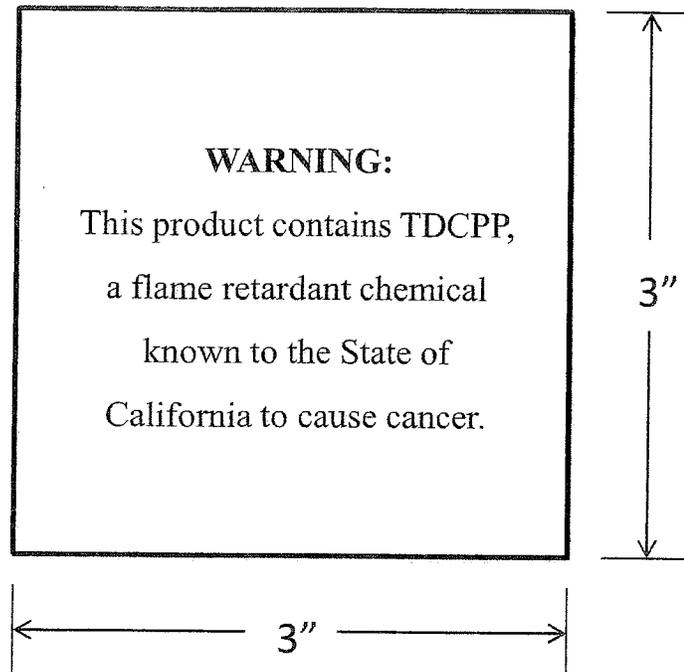
21 Greg Adams  
22 Sr VP Operations/Administration  
23 Riverside Furniture Corporation  
24 1400 S 6th Street  
25 PO Box 1427  
26 Fort Smith, AR 72902-1427

25 With a copy to:

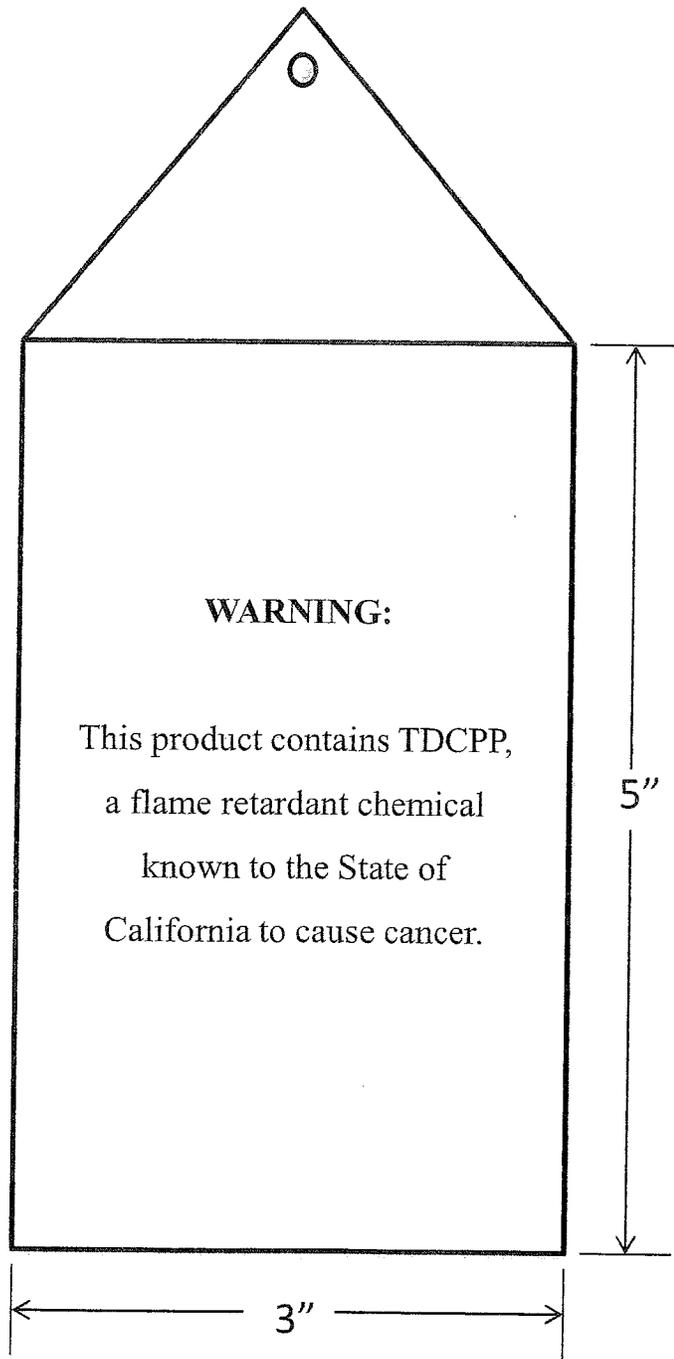
26 Jeffrey B. Margulies  
27 Norton Rose Fulbright  
28 555 South Flower Street, 41st Floor  
Los Angeles, CA 90071

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EXHIBIT B  
(ILLUSTRATIVE WARNINGS)



**INSTRUCTIONS:** Minimum 12 pt. font. "WARNING:" text must be bold.

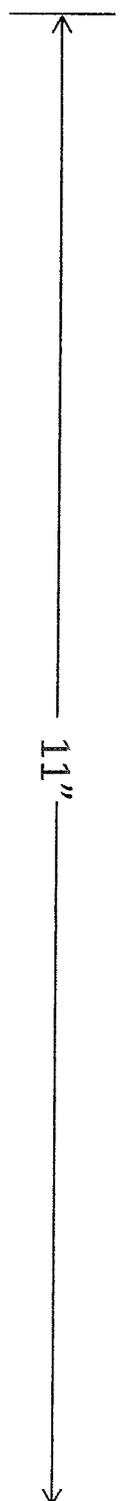


**INSTRUCTIONS:** Print warning on each side of hang tag.  
Minimum 12 pt. font. "WARNING:" text must be bold.

**WARNING:**

This product contains TDCPP, a flame retardant 8.5"

chemical known to the State of California to  
cause cancer.



**INSTRUCTIONS:** Minimum 32 pt. Font. "WARNING:" text must be bold and underlined.