



\*12713514\*

1 Clifford A. Chanler, State Bar No. 135534  
2 Gregory M. Sheffer, State Bar No. 173124  
3 THE CHANLER GROUP  
4 81 Throckmorton Avenue, Suite 202  
5 Mill Valley, CA 94941  
6 Telephone: 415.388.0911  
7 Facsimile: 415.388.9911

8 Attorneys for Plaintiff  
9 PETER ENGLANDER

**FILED**  
ALAMEDA COUNTY  
SEP 29 2015  
CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ALAMEDA

12 UNLIMITED JURISDICTION

13 PETER ENGLANDER

14 Plaintiff,

15 vs.

16 ACME FURNITURE INDUSTRY, INC.,  
17 BASSETT FURNITURE INDUSTRIES,  
18 INCORPORATED, BEST CHAIRS  
19 INCORPORATED, BUTLER SPECIALTY  
20 COMPANY, COA, INC., FOREMOST  
21 GROUPS, INC., IDEA NUOVA INC., MINSON  
22 CORPORATION, NAJARIAN FURNITURE  
23 COMPANY, INC., P'KOLINO, LLC, THE TJX  
24 COMPANIES, INC. and DOES 1-150,

25 Defendants.

Case No. RG13673678


**JUDGMENT AS TO ACME  
FURNITURE INDUSTRY, INC.  
PURSUANT TO PROPOSITION 65  
SETTLEMENT**

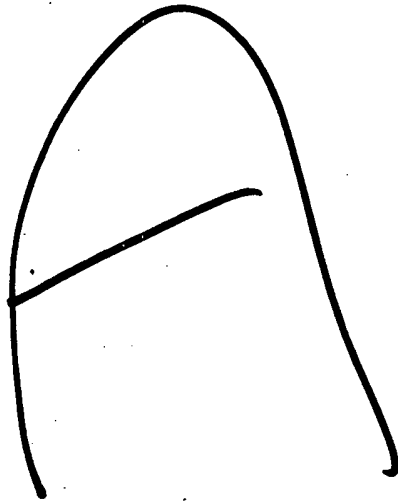
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 In the above-entitled action, Plaintiff Peter Englander and Defendant Acme Furniture  
2 Industry, Inc., having agreed through their respective counsel that a judgment be entered  
3 pursuant to the terms of the Consent To Judgment entered into by the parties in resolution of  
4 this Proposition 65 action, and following the issuance of an order approving the Parties' Consent  
5 to Judgment on this day, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant  
6 to Health & Safety Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby  
7 entered in accordance with the terms of the Consent To Judgment attached hereto as Exhibit A.  
8 By stipulation of the parties, the Court will retain jurisdiction to enforce the settlement under  
9 Code of Civil Procedure § 664.6.  
10

11 **IT IS SO ORDERED.**

12  
13  
14 Dated: 9/29/2015

  
\_\_\_\_\_  
Hon. George Hernandez  
Judge Of The Superior Court

A large, handwritten capital letter 'A' in black ink, centered on the page. The letter has a curved top and a diagonal crossbar.

1 Clifford A. Chanler, State Bar No. 135534  
2 Gregory M. Sheffer, State Bar No. 173124  
3 THE CHANLER GROUP  
4 81 Throckmorton Avenue, Suite 202  
5 Mill Valley, CA 94941  
6 Telephone: 415.388.0911  
7 Facsimile: 415.388.9911

8 Attorneys for Plaintiff  
9 PETER ENGLANDER

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ALAMEDA

12 UNLIMITED JURISDICTION

13 PETER ENGLANDER

14 Plaintiff,

15 vs.

16 ACME FURNITURE INDUSTRY, INC.,  
17 BASSETT FURNITURE INDUSTRIES,  
18 INCORPORATED, BEST CHAIRS  
19 INCORPORATED, BUTLER SPECIALTY  
20 COMPANY, COA, INC., FOREMOST  
21 GROUPS, INC., IDEA NUOVA INC., MINSON  
22 CORPORATION, NAJARIAN FURNITURE  
23 COMPANY, INC., P'KOLINO, LLC, THE TJX  
24 COMPANIES, INC. and DOES 1-150,

25 Defendants.

Case No. R13673678

Assigned for All Purposes to  
Judge George C. Hernandez, Jr.,  
Department 17

**CONSENT TO JUDGMENT AS  
TO DEFENDANT ACME  
FURNITURE INDUSTRY, INC.**

(Health & Safety Code § 25249.6 *et seq.*)

Filed: March 29, 2013

1     **1. INTRODUCTION**

2             **1.1 Parties**

3             This Consent Judgment is entered into by and between plaintiff Peter Englander  
4 ("Plaintiff") and Acme Furniture Industry, Inc. ("Settling Defendant"), with Plaintiff and the  
5 Settling Defendant collectively referred to as the "Parties."

6             **1.2 Plaintiff**

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

10            **1.3 Settling Defendant**

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

14            **1.4 General Allegations**

15            1.4.1 Plaintiff alleges that Settling Defendant 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).

23            1.4.3 Pursuant to Proposition 65, on October 24, 2003, the State listed Di(2-  
24 ethylhexyl)phthalate as a chemical known to cause birth defects and other reproductive harm.  
25 DEHP became subject to the warning requirement one year later on October 24, 2004. 27 CCR §  
26 27001(b); Cal. Health & Safety Code §§ 25249.8 and 25249.10(b).

1 DEHP and TDCPP are hereinafter collectively referred to as the "Listed Chemicals."  
2 Plaintiff alleges that the Listed Chemicals escape from foam padding and PVC/vinyl covering,  
3 leading to human exposures.

4 **1.5 Product Description**

5 The product covered by this Consent Judgment is Acme Chair #10033 (hereinafter  
6 "Product").

7 **1.6 Notices of Violation**

8 On May 24, 2013, Plaintiff served Settling Defendant and certain requisite public  
9 enforcement agencies with a "60-Day Notice of Violation" ("Notice") that provided the recipients  
10 with notice of alleged violations of Proposition 65 based on the alleged failure to warn customers,  
11 consumers, and workers in California that the Product exposes users to TDCPP and DEHP. To the  
12 best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the  
13 allegations set forth in the Notice.

14 **1.7 Complaint**

15 On October 18, 2013, Plaintiff filed a Second Amended Complaint in the Superior Court in  
16 and for the County of Alameda against Settling Defendant, other defendants and Does 1 through  
17 150, alleging violations of Proposition 65, based in part on the alleged unwarned exposures to  
18 DEHP and TDCPP contained in the Products.

19 **1.8 No Admission**

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

1.9 **Consent to Jurisdiction**

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

6 **2. DEFINITIONS**

7 **2.1 California Customers**

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

11 **2.2 Detectable**

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

17 As to DEHP, the term "Detectable" shall mean containing more than 1,000 parts per million  
18 ("ppm") (the equivalent of .1%) of DEHP, BBP, and DBP in any material, component, or constituent  
19 of a subject product, when analyzed by a NVLAP accredited laboratory pursuant to EPA testing  
20 methodologies 3580A and 8270C, or equivalent methodologies utilized by federal or state agencies  
21 to determine the presence, and measure the quantity, of DEHP, BBP, and DBP in a solid substance.

22 **2.3 Effective Date**

23 "Effective Date" shall mean the date on which the Court approves this Consent Judgment.

24 **2.4 Reformulated Products**

25 "Reformulated Products" shall mean Products that contain no Detectable amount of DEHP,  
26 or TDCPP.

27 **2.5 Reformulation Standard**

1 The "Reformulation Standard" shall mean containing no more than 25 ppm of each TDCPP  
2 and no more than 1,000 ppm DEHP.

3 **2.7 Retailer**

4 "Retailer" means an individual or entity that offers a Product for retail sale to consumers in  
5 the State of California.

6 **3. INJUNCTIVE RELIEF: REFORMULATION**

7 **3.1 Reformulation Commitment**

8 Commencing on the Effective Date, Settling Defendant shall not manufacture or import, or  
9 cause to be manufactured or imported, any Products that are not Reformulated Products.

10 **3.2 Vendor Notification/Certification**

11 On or before the Effective Date, Settling Defendant shall provide written notice to all of its  
12 then-current vendors of the Products, instructing each such vendor to use reasonable efforts to  
13 provide it with only Reformulated Products. In addressing the obligation set forth in the preceding  
14 sentence, Settling Defendant shall not employ statements that will encourage a vendor to delay  
15 compliance with the Reformulation Standard. Settling Defendant shall subsequently obtain written  
16 certifications, no later than the Effective Date, from such vendors, and any newly engaged vendors,  
17 that the Products manufactured by such vendors are in compliance with the Reformulation  
18 Standard. Certifications shall be held by Settling Defendant for at least two years after their receipt  
19 and shall be made available to Plaintiff upon request.

20 **3.3 Products No Longer in a Settling Defendant's Control**

21 No later than 45 days after the Effective Date, Settling Defendant shall send a letter,  
22 electronic or otherwise ("Notification Letter") to: (1) each California Customer and/or Retailer  
23 which it, after October 28, 2011, supplied the item for resale in California described as an exemplar  
24 in the Notice(s) Settling Defendant received from Plaintiff ("Exemplar Product"); and (2) any  
25 California Customer and/or Retailer that Settling Defendant reasonably understands or believes  
26 had any inventory for resale in California of Exemplar Products as of the relevant Notice's dates.  
27 The Notification Letter shall advise the recipient that the Exemplar Product "contains TDCPP, a  
28 chemical known to the State of California to cause cancer," and request that the recipient either: (a)



1 label the Exemplar Products remaining in inventory for sale in California, or to California  
2 Customers, pursuant to Section 3.5; or (b) return, at Settling Defendant's sole expense, all units of  
3 the Exemplar Product held for sale in California, or to California Customers, to Settling Defendant  
4 or a party Settling Defendant has otherwise designated. The Notification Letter shall require a  
5 response from the recipient within 15 days confirming whether the Exemplar Product will be  
6 labeled or returned. Settling Defendant shall maintain records of all correspondence or other  
7 communications generated pursuant to this Section for two years after the Effective Date and shall  
8 promptly produce copies of such records upon Plaintiff's written request.

### 9 3.4 Current Inventory

10 Settling Defendant represents, as a material term of this Agreement, that as of January 1,  
11 2015, it no longer has any inventory of any Product that is not a Reformulated Product.

### 12 3.5 Product Warnings

#### 13 3.5.1 Product Labeling

14 As Settling Defendant has no inventory of Product that is not a Reformulated Product, there  
15 is no labeling requirement under this Agreement.

## 16 4. MONETARY PAYMENTS

### 17 4.1 Civil Penalties Pursuant to Health & Safety Code § 25249.7(b)

18 In settlement of all the claims referred to in this Consent Judgment, Settling Defendant shall  
19 pay the civil penalties in accordance with this Section. Each penalty payment will be allocated in  
20 accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75% of the funds  
21 remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and  
22 25% of the penalty remitted to "Peter Englander, Client Trust." Each penalty payment shall be  
23 made within two business days of the date it is due and be delivered to the addresses listed in  
24 Section 4.5 below. A Settling Defendant shall be liable for payment of interest, at a rate of 10%  
25 simple interest, for all amounts due and owing under this Section that are not received within two  
26 business days of the due date.

27 4.1.1 Initial Civil Penalty. Within two business days of the Effective Date, Settling  
28 Defendant shall make an initial civil penalty payment in the amount of \$11,000.00. Settling

1 Defendant shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts  
2 due and owing under this Section that are not received within two business days of the due date.

3 4.1.2 Second Civil Penalty. On or before October 31, 2015, Settling Defendant shall  
4 make a second civil penalty payment in the amount of \$11,000.00. The amount of the second  
5 penalty may be reduced according to any penalty waiver Settling Defendant is eligible for under  
6 Section 4.1.4(i), below. Settling Defendant shall be liable for payment of interest, at a rate of 10%  
7 simple interest, for all amounts due and owing under this Section that are not received within two  
8 business days of the due date.

9 4.1.3 Third Civil Penalty. On or before October 31, 2015, Settling Defendant shall  
10 make a third civil penalty payment in the amount of \$11,000.00. The amount of the third penalty  
11 may be reduced according to any penalty waiver Settling Defendant is eligible for under Section  
12 4.1.4(ii), below. Settling Defendant shall be liable for payment of interest, at a rate of 10% simple  
13 interest, for all amounts due and owing under this Section that are not received within two business  
14 days of the due date.

15 4.1.4 Reductions to Civil Penalty Payment Amounts. Settling Defendant may  
16 reduce the amount of the second and/or third civil penalty payments by providing Plaintiff with  
17 certification of certain efforts undertaken to reformulate its Products or limit the ongoing sale of  
18 non-reformulated Products in California. The options to provide a written certification in lieu of  
19 making a portion of Settling Defendant's civil penalty payment constitute material terms of this  
20 Consent Judgment, and with regard to such terms, time is of the essence.

21 4.1.4(i) **Partial Penalty Waiver for Accelerated Reformulation of**  
22 **Products Sold or Offered for Sale in California.**

23 The second civil penalty shall be waived, to the extent that it has agreed that, as of the  
24 execution of this Consent Judgment, and continuing into the future, the Settling Defendant shall  
25 only manufacture or import for distribution or sale to California Customers or cause to be  
26 manufactured or imported for distribution or sale to California Customers, Reformulated Products.  
27 An officer or other authorized representative of Settling Defendant that has exercised this election  
28

1 shall provide Plaintiff with a written certification confirming compliance with such conditions,  
2 which certification must be received by Plaintiff's counsel within 10 days of the Effective Date.

3 **4.1.4(ii) Partial Penalty Waiver for Extended Reformulation.**

4 The third civil penalty shall be waived, to the extent that it has agreed that, as of the  
5 Effective Date and continuing into the future, Settling Defendant shall only manufacture or import  
6 for distribution or sale in California or cause to be manufactured or imported for distribution or  
7 sale in California, Reformulated Products that also do not contain tris(2,3-  
8 dibromopropyl)phosphate ("TDBPP") or tris(2-chloroethyl) phosphate ("TCEP") in a detectable  
9 amount of more than 25 parts per million ("ppm") (the equivalent of .0025%) in any material,  
10 component, or constituent of a subject product, when analyzed by a NVLAP accredited laboratory  
11 pursuant to EPA testing methodologies 3545 and 8270C, or equivalent methodologies utilized by  
12 federal or state agencies to determine the presence, and measure the quantity, of TDBPP or TCEP in  
13 a solid substance. An officer or other authorized representative of Settling Defendant that has  
14 exercised this election shall provide Plaintiff with a written certification confirming compliance  
15 with such conditions, which certification must be received by Plaintiff's counsel within 10 days of  
16 the Effective Date.

17 **4.2 Representation**

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

28 **4.3 Stipulated Penalties for Certain Violations of the Reformulation Standard.**

1 If Plaintiff provides notice and appropriate supporting information to Settling Defendant  
2 that levels of a Listed Chemical in excess of the Reformulation Standard have been detected in one  
3 or more Products labeled or otherwise marked in an identifiable manner as manufactured or  
4 imported after a deadline for meeting the Reformulation Standard has arisen for Settling Defendant  
5 under Section 3.1, the Settling Defendant may elect to pay a stipulated penalty to relieve any further  
6 potential liability under Proposition 65 or sanction under this Consent Judgment as to Products  
7 sourced from the vendor in question.<sup>1</sup> The stipulated penalty shall be \$1,500 if the violation level is  
8 below 100 ppm and \$3,000 if the violation level is between 100 ppm and 249 ppm, this being  
9 applicable for any amount in excess of the Reformulation Standards but under 250 ppm.<sup>2</sup> Plaintiff  
10 shall further be entitled to reimbursement of their associated expense in an amount not to exceed  
11 \$5,000 regardless of the stipulated penalty level. Settling Defendant under this Section must  
12 provide notice and appropriate supporting information relating to the purchase (e.g. vendor name  
13 and contact information including representative, purchase order, certification (if any) received  
14 from vendor for the exemplar or subcategory of products), test results, and a letter from a company  
15 representative or counsel attesting to the information provided, to Plaintiff within 30 calendar days  
16 of receiving test results from Plaintiff's counsel. Any violation levels at or above 250 ppm shall be  
17 subject to the full remedies provided pursuant to this Consent Judgment and at law.

#### 18 4.4 Reimbursement of Fees and Costs

19 The Parties acknowledge that Plaintiff and his counsel offered to resolve this dispute  
20 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
21 this fee reimbursement issue to be resolved after the material terms of the agreement had been  
22 settled. Shortly after the other settlement terms had been finalized, Settling Defendant expressed a  
23 desire to resolve the fee and cost issue. Settling Defendant then agreed to pay Plaintiff and his  
24 counsel under general contract principles and the private attorney general doctrine codified at

25 <sup>1</sup> This Section shall not be applicable where the vendor in question had previously been found by the Settling  
26 Defendant to have provided unreliable certifications as to meeting the Reformulation Standard in its Products on more  
27 than one occasion. Notwithstanding the foregoing, a stipulated penalty for a second exceedance by a Settling  
28 Defendant's vendor at a level between 100 and 249 ppm shall not be available after July 1, 2016.

<sup>2</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 California Code of Civil Procedure section 1021.5 for all work performed through the mutual  
2 execution of this agreement, including the fees and costs incurred as a result of investigating,  
3 bringing this matter to Settling Defendant's attention, negotiating a settlement in the public interest,  
4 and seeking court approval of the same. In addition, the negotiated fee and cost figure expressly  
5 includes the anticipated significant amount of time plaintiffs' counsel will incur to monitor various  
6 provisions in this agreement over the next two years, with the exception of additional fees that may  
7 be incurred pursuant to a Settling Defendant's election in Section 11. Settling Defendant more  
8 specifically agreed, within two business days of the Court's approval of this Consent to Judgment  
9 agreement, to pay Plaintiff's counsel the amount of fees and costs of \$47,000.00. Settling Defendant  
10 shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts due and  
11 owing under this Section that are not received within two business days of the due date.

12 **4.5 Payment Procedures**

13 **4.5.1 Issuance of Payments.**

14 (a) All payments due pursuant to Sections 4.1, 4.3 and 4.4 shall be shall be  
15 tendered by Settling Defendant to a trust bank account of Norton Rose Fulbright US LLP.  
16 On the day of payment, copies of Settling Defendant's payment to Norton Rose Fulbright  
17 US LLP pursuant to Sections 4.1 and 4.4 shall be mailed to plaintiff at the following  
18 payment address:

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

21 (b) No later than two business days after approval of this Consent to  
22 Judgment by the Court, Norton Rose Fulbright US LLP shall deliver payment of the civil  
23 penalty under Section 4.1, payable to "The Chanler Group, in Trust for Peter Englander  
24 and OEHHA" and shall deliver payment of the fee/cost reimbursement under Section 4.4,  
25 payable to "The Chanler Group" to the following payment address:

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

1 (c) Upon receipt and clearance of the civil penalty payment from Norton  
2 Rose Fulbright US LLP, The Chanler Group shall thereafter issue payment of 75% of the  
3 civil penalty to OEHHA and 25% of the civil penalty to Mr. Englander. The Chanler Group  
4 shall provide a copy of its OEHHA penalty distribution to counsel for Settling Defendant.

5 (d) Settling Defendant shall be liable for payment of interest, at a rate of  
6 10% simple interest, for all amounts due and owing from it under Section 4.1 or 4.4 that are  
7 not received within two business days of the due date.

8 4.5.2 Tax Documentation. Settling Defendant shall issue a separate 1099 form for  
9 each payment required by this Section to "The Chanler Group" (EIN: 94-3171522) to the address  
10 set forth in Section 4.5.1(a) above.

11  
12 **5. CLAIMS COVERED AND RELEASED**

13 **5.1 Plaintiff's Release of Proposition 65 Claims**

14 Plaintiff, acting on his own behalf and in the public interest, releases Settling Defendant, its  
15 parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents  
16 employees, attorneys, and each entity to whom Settling Defendant directly or indirectly distribute  
17 or sell Products, including, but not limited, to downstream distributors, wholesalers, customers,  
18 retailers, franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims  
19 for violations of Proposition 65 through the Effective Date based on unwarned exposures to the  
20 Listed Chemicals in the Product, as set forth in the Notices. This release is only as to Chair #10033  
21 and the stream of commerce specific to Chair #10033. This release does not extend to any products  
22 manufactured, distributed or otherwise sold to Acme Furniture Industry, Inc. by Kinfine USA, Inc.  
23 Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65  
24 with respect to exposures to the Listed Chemicals from the Product, as set forth in the Notices. The  
25 Parties further understand and agree that this Section 5.1 release shall not extend upstream to any  
26 entities, other than Settling Defendant, that manufactured the Products or any component parts  
27  
28

1 thereof, or any distributors or suppliers who sold the Products or any component parts thereof to  
2 Settling Defendant.

3 **5.2 Plaintiff's Individual Releases of Claims**

4 Plaintiff, in his individual capacities only and *not* in his representative capacities, provides a  
5 release herein which shall be effective as a full and final accord and satisfaction, as a bar to all  
6 actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims,  
7 liabilities, and demands of Plaintiff of any nature, character, or kind, whether known or unknown,  
8 suspected or unsuspected, limited to and arising out of alleged or actual exposures to DEHP,  
9 TDCPP, TCEP, and/or TDBPP in Products manufactured, imported, distributed, or sold by Settling  
10 Defendant prior to the Effective Date. This release is only as to Chair #10033 and the stream of  
11 commerce specific to Chair #10033. This release does not extend to any products manufactured,  
12 distributed or otherwise sold to Acme Furniture Industry, Inc. by Kinfine USA, Inc. The Parties  
13 further understand and agree that this Section 5.2 release shall not extend upstream to any entities  
14 that manufactured the Products, or any component parts thereof, or any distributors or suppliers  
15 who sold the Products, or any component parts thereof to Settling Defendant. Nothing in this  
16 Section affects Plaintiff's rights to commence or prosecute an action under Proposition 65 against a  
17 Releasee that does not involve Settling Defendant's Products.

18 **5.3 Settling Defendant's Release of Plaintiff**

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

25 **6. COURT APPROVAL**

26 This Consent Judgment is not effective until it is approved and entered by the Court and  
27 shall be null and void if, for any reason, it is not approved in its entirety and entered by the Court  
28 within one year after it has been fully executed by all Parties. If the Court does not approve the

1 Consent Judgment, the Parties shall meet and confer as to whether to modify the language or  
2 appeal the ruling. If the Parties do not jointly agree on a course of action to take, then the case shall  
3 proceed in its normal course on the Court's trial calendar. If the Court's approval is ultimately  
4 overturned by an appellate court, the Parties shall meet and confer as to whether to modify the  
5 terms of this Consent Judgment. If the Parties do not jointly agree on a course of action to take,  
6 then the case shall proceed in its normal course on the Court's trial calendar.

7 **7. GOVERNING LAW**

8 The terms of this Consent Judgment shall be governed by the laws of the State of California.  
9 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by  
10 reason of law generally, or if any of the provisions of this Consent Judgment are rendered  
11 inapplicable or are no longer required as a result of any such repeal or preemption, or rendered  
12 inapplicable by reason of law generally as to the Products, then Settling Defendant may provide  
13 written notice to Plaintiff of any asserted change in the law, and shall have no further obligations  
14 pursuant to this Consent Judgment with respect to, and to the extent that, the Products are so  
15 affected. Nothing in this Consent Judgment shall be interpreted to relieve Settling Defendant from  
16 any obligation to comply with any pertinent state or federal law or regulation.

17 **8. NOTICES**

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

22 To Settling Defendant:

23 Susan Steinlin  
24 Acme Furniture Industry, Inc.  
25 18895 E. Arenth Ave.  
City of Industry, CA 91748

26 With a copy to:

27 Jeffrey Margulies  
28 Norton Rose Fulbright US LLP

To Plaintiff:

Proposition 65 Coordinator  
The Charler Group  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565



555 South Flower Street, 41<sup>st</sup> Floor  
Los Angeles, CA 90071

1  
2  
3  
4 Any Party, from time to time, may specify in writing to the other Party a change of address to  
5 which all notices and other communications shall be sent.

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

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

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

11 Plaintiff and his attorneys agree to comply with the reporting form requirements referenced  
12 in California Health & Safety Code section 25249.7(f).

13 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

14 Plaintiff and Settling Defendant agree to support the entry of this agreement as a Consent  
15 Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The  
16 Parties acknowledge that, pursuant to California Health & Safety Code section 25249.7, a noticed  
17 motion is required to obtain judicial approval of this Consent Judgment, which Plaintiff shall draft  
18 and file. If any third party objection to the noticed motion is filed, Plaintiff and each Settling  
19 Defendant shall work together to file a reply and appear at any hearing before the Court. This  
20 provision is a material component of the Consent Judgment and shall be treated as such in the  
21 event of a breach.

22 **12. MODIFICATION**

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

26 **13. AUTHORIZATION**

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

4 AGREED TO:

AGREED TO:

5 Date: July 7, 2015

Date: July \_\_, 2015

6  
7   
8 Plaintiff Peter Englander

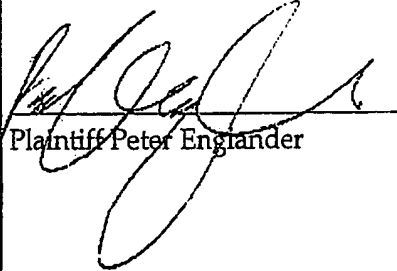
\_\_\_\_\_  
Acme Furniture Industry, Inc.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

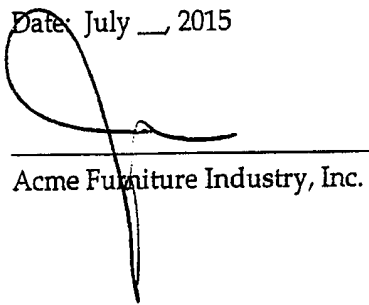
4 AGREED TO:

5 Date: July 7, 2015

6   
7 Plaintiff Peter Englander

AGREED TO:

8 Date: July \_\_, 2015

9   
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Acme Furniture Industry, Inc.