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FILED
ALAMEDA COUNTY

JAN 14 2016

CLERK OF THE SUPERIOR COURT
By _____ Deputy

5 Attorneys for Plaintiff
6 PAUL WOZNIAK

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 UNLIMITED CIVIL JURISDICTION

13 PAUL WOZNIAK,

14 Plaintiff,

15 v.

16 THE REGENT GROUP, INC., *et al.*

18 Defendants.

Case No. RG14744068

**[PROPOSED] JUDGMENT PURSUANT
TO TERMS OF PROPOSITION 65
SETTLEMENT AND CONSENT
JUDGMENT**

Date: January 14, 2016

Time: 3:45 p.m.

Dept: 24

Judge: Hon. Frank Roesch

Reservation No. R-1686898

RECEIVED
ALAMEDA COUNTY

NOV 24 2015

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1 In the above-entitled action, plaintiff Paul Wozniak. and defendant The Regent
2 Group, Inc., having agreed through their respective counsel that Judgment be entered
3 pursuant to the terms of their settlement agreement in the form of a Consent Judgment, and
4 following this Court's issuance of an Order approving this Proposition 65 settlement and
5 Consent Judgment:

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

11
12 **IT IS SO ORDERED.**

13
14 Dated: 1/14/2015



JUDGE OF THE SUPERIOR COURT

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14
15 PAUL WOZNIAK,

16 Plaintiff,

17 v.

18 THE REGENT GROUP, INC., *et al.*

19 Defendants.
20

Case No. RG14744068

[PROPOSED] CONSENT JUDGMENT

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

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Paul Wozniak (“Wozniak”),
4 and defendants The Regent Group, Inc. and Regent Products Corp. (collectively, “Regent”), with
5 Wozniak and Regent each individually referred to as a “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

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

10 **1.3 Regent**

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

14 **1.4 General Allegations**

15 Wozniak alleges that Regent manufactures, imports, sells, or distributes for sale in California,
16 nylon cooking utensils that contain 4,4'-methylenedianiline (“4,4'-MDA”) without first providing the
17 exposure warning required by Proposition 65. 4,4'-MDA is listed pursuant to Proposition 65 as a
18 chemical known to the State of California to cause cancer.

19 **1.5 Product Description**

20 The products covered by this Consent Judgment are nylon cooking utensils containing 4,4'-
21 MDA that are manufactured, imported, sold, or distributed for sale in California by Regent including,
22 but not limited to, *Good Old Values Solid Spoon, G25423, UPC #7 21003 25423 7*, hereinafter the
23 “Products”.

24 **1.6 Notice of Violation**

25 On or about July 30, 2014, Wozniak served Regent, Inventory Liquidators Corp., and certain
26 requisite public enforcement agencies with a “60-Day Notice of Violation” (“Notice”) alleging that
27 Regent violated Proposition 65 by failing to warn it’s customers and consumers in California that the
28

1 Products expose users to 4,4'-MDA. To the best of the Parties' knowledge, no public enforcer has
2 commenced and is diligently prosecuting the allegations set forth in the Notice.

3 **1.7 Complaint**

4 On October 10, 2014, Wozniak filed the instant action ("Complaint") naming Regent as a
5 defendant for the alleged violations of Health and Safety Code section 25249.6 that are the subject of
6 the Notice.

7 **1.8 No Admission**

8 Regent denies the material, factual, and legal allegations contained in the Notice and
9 Complaint, and maintains that all of the products it has sold and distributed for sale in California,
10 including the Products, have been, and are, in compliance with all laws. Nothing in this Consent
11 Judgment shall be construed as an admission of any fact, finding, conclusion of law, issue of law, or
12 violation of law, nor shall compliance with this Consent Judgment constitute or be construed as an
13 admission of any fact, finding, conclusion of law, issue of law, or violation of law. This Section shall
14 not, however, diminish or otherwise affect Regent's obligations, responsibilities, and duties under
15 this Consent Judgment.

16 **1.9 Jurisdiction**

17 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
18 jurisdiction over Regent as to the allegations contained in the Complaint, that venue is proper in the
19 County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions of this
20 Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

21 **1.10 Effective Date**

22 For purposes of this Consent Judgment, the term "Effective Date" means the date on which
23 the Motion for Approval of the Consent Judgment is granted by the Court.

24 **2. INJUNCTIVE RELIEF: REFORMULATION**

25 **2.1 Reformulated Products**

26 Commencing on December 31, 2015, and continuing thereafter, Regent shall only purchase
27 for sale, or manufacture for sale in California, "Reformulated Products." For purposes of this
28 Consent Judgment, Reformulated Products shall:

- 1 *i.* contain less than or equal to 200 parts per million (“ppm”) 4,4’-MDA by weight using
2 validated preparation and analytical methods used to detect the presence of 4,4’-MDA
3 in a solid substance; and
4 *ii.* produce a leach result of 10 ug/L or less 4,4’-MDA by digesting the food contact end
5 of the product into 100 ml of 3% acetic acid de-ionized water for 2 hours at 100°C,
6 replenishing the acetic acid solution as needed to maintain 100 ml, and analyzing the
7 leachate using a validated method to detect the presence of 4,4’-MDA in a liquid.

8 The testing shall be conducted in an accredited laboratory with qualified personnel. All
9 analytical reports must contain quality control data that verify the laboratory’s performance for the
10 results in each analytical report.

11 **3. MONETARY SETTLEMENT TERMS**

12 **3.1 Civil Penalty Payments**

13 Pursuant to Health & Safety Code § 25249.7(b), in settlement of all the claims referred to in this
14 Consent Judgment, Regent shall pay \$7,500 in civil penalties. The civil penalty payment shall be
15 allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with seventy-five
16 percent (75%) of the funds paid to the California Office of Environmental Health Hazard Assessment
17 (“OEHHA”), and twenty-five percent (25%) of the funds remitted to Wozniak. Regent shall provide
18 its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the amount
19 of \$5,625; and (b) “Paul Wozniak, Client Trust Account” in the amount of \$1,875, as set forth in
20 Sections 3.3 and 3.4

21 Regent, and any other entity released by this Consent Judgment, understands that the sales
22 data it provided to Wozniak was a material factor upon which Wozniak has relied to determine the
23 amount of civil penalties assessed pursuant to Health & Safety Code § 25249.7 in this Consent
24 Judgment. To the best of Regent’s knowledge the sales data provided by Regent to Wozniak is full
25 and complete, and is a true and accurate reflection of any and all sales of the Products in California
26 during the relevant period. If, within nine months of the Effective Date, Wozniak discovers and
27 presents Regent with evidence that, prior to execution of this Consent Judgment, the Product has been
28 distributed by Regent in sales volumes materially different than those identified by Regent prior to

1 execution of this Consent Judgment, then Regent may be liable for an additional penalty amount as
2 well as additional attorney fees expended by Wozniak in the public interest. In the event Wozniak
3 believes there is evidence that the Product has been distributed by Regent in sales volumes materially
4 different than those identified by Regent, Wozniak shall provide Regent with a written demand for
5 additional penalties and attorney fees under this Section. After service of such demand, Regent shall
6 have 30 days to meet and confer regarding the demand and submit such payment to Wozniak in
7 accordance with the method of payment of penalties identified in this Section 3. Should this 30 day
8 period pass without any such resolution between the Parties and payment of such additional penalties
9 and fees, Wozniak shall be entitled to file a formal legal claim including, but not limited to, a claim
10 for damages for breach of this contract, and the prevailing party shall be entitled to all reasonable
11 attorney fees and costs relating to that action.

12 **3.2 Reimbursement of Attorney's Fees and Costs**

13 The parties acknowledge that Wozniak and his counsel offered to resolve this dispute without
14 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the issue to
15 be resolved after the material terms of this Consent Judgment had been settled. Shortly after the
16 other settlement terms had been finalized, Regent expressed a desire to resolve Wozniak's fees and
17 costs. The Parties then attempted to (and did) reach an accord on the compensation due to Wozniak
18 and his counsel under general contract principles and the private attorney general doctrine codified at
19 California Code of Civil Procedure section 1021.5 for all work performed through the mutual
20 execution of this Consent Judgment. Regent shall pay \$32,000 to "The Chanler Group" for the fees
21 and costs incurred by Wozniak investigating, bringing this matter to Regent's attention, litigating and
22 negotiating a settlement in the public interest, following the payment procedures set forth in section
23 3.3 and 3.4.

24 **3.3 Payments Held in Trust**

25 All payments due under this Consent Judgment shall be held in trust until such time as the
26 Court approves the Parties' settlement. All payments due under this agreement shall be delivered
27 within five (5) days of the date that this Consent Judgment is fully executed by the Parties, and held
28 in trust by Regent's counsel until the Court grants the motion for approval of this Consent Judgment

1 contemplated by Section 5. Within two business days of the Court's approval of this Consent
2 Judgment, Regent's counsel shall tender the civil penalty payments and attorneys' fee and costs
3 reimbursements required by Sections 3.1 and 3.2, to the address set forth in Section 3.4.

4 **3.4 Payment Address**

5 All payments required by this Consent Judgment shall be delivered to the following
6 address:

7 The Chanler Group
8 Attn: Proposition 65 Controller
9 2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

10 **4. CLAIMS COVERED AND RELEASED**

11 **4.1 Wozniak's Public Release of Proposition 65 Claims**

12 Wozniak, acting on his own behalf and in the public interest, releases Regent and it's
13 parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees,
14 and attorneys ("Releasees") and each entity to whom it directly or indirectly distributes or sells the
15 Products including, but not limited to, it's downstream distributors, wholesalers, customers,
16 retailers, franchisers, cooperative members, licensors and licensees ("Downstream Releasees") for
17 any violations arising under Proposition 65 for unwarned exposures to 4,4'-MDA from Products
18 sold by Regent prior to the Effective Date, as set forth in the Notice. Compliance with the terms of
19 this Consent Judgment constitutes compliance with Proposition 65 with respect to 4,4'-MDA in the
20 Products sold by Regent before the Effective Date, as set forth in the Notice.

21 **4.2 Wozniak's Individual Release of Claims**

22 Wozniak, in his individual capacity only and *not* in his representative capacity, also provides
23 a release to Regent, Releasees, and Downstream Releasees which shall be effective as a full and final
24 accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses,
25 attorneys' fees, damages, losses, claims, liabilities and demands of Wozniak of any nature, character
26 or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual
27 exposures to 4,4'-MDA in the Products sold or distributed for sale by Regent before the Effective
28 Date.

1 **4.3 Regent's Release of Wozniak**

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

8 **5. COURT APPROVAL**

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

12 **6. SEVERABILITY**

13 If, subsequent to the Court's approval and entry of this Consent Judgment as a judgment, any
14 provision is held by a court to be unenforceable, the validity of the remaining provisions shall not be
15 adversely affected.

16 **7. GOVERNING LAW**

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

24 **8. NOTICE**

25 Unless specified herein, all correspondence and notice required by this Consent Judgment
26 shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified mail,
27 return receipt requested; or (iii) a recognized overnight courier to the following addresses:
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For Regent:

Michael DePaul, President
The Regent Group, Inc.
Regent Products Corp.
8999 Palmer Street
River Grove, IL 60171

Laura P. Worsinger, Esq.
Dykema Gossett PLLC
333 South Grand Avenue
Suite 2100
Los Angeles, CA 90071

For Wozniak:

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

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

9. COUNTERPARTS; FACSIMILE SIGNATURES

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

10. POST EXECUTION ACTIVITIES

Wozniak agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement. In furtherance of obtaining such approval, the Parties agree to mutually employ their best efforts, and those of their counsel, to support the entry of this agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For purposes of this Section, "best efforts" shall include, at a minimum, cooperating on the drafting and filing of the necessary moving papers, supporting the motion, and appearing at the hearing before the Court.

11. MODIFICATION

This Consent Judgment may be modified only by: (i) a written agreement of the Parties and entry of a modified consent judgment by the Court; or (ii) a successful motion or application of any Party, and the entry of a modified consent judgment by the Court.

1
2 **12. AUTHORIZATION**

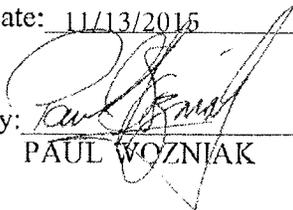
3 The undersigned are authorized to execute this Consent Judgment and have read, understood,
4 and agree to all of the terms and conditions contained herein.
5

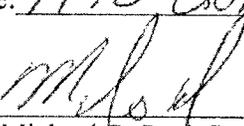
6 **AGREED TO:**

AGREED TO:

7
8 Date: 11/13/2015

Date: 11-13-2015

9
10 By: 
PAUL WOZNIAK

11 By: 
Michael DePaul, President
The Regent Group, Inc.
Regent Products Corp.
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