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Josh Voorhees, State Bar No. 241436  
THE CHANLER GROUP  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710  
Telephone: (510) 848-8880  
Facsimile: (510) 848-8118

Attorneys for Plaintiff  
JOHN MOORE and  
ANTHONY E. HELD, PH.D., P.E.

FILED

JAN 27 2016

JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: E. Chois, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MARIN  
UNLIMITED CIVIL JURISDICTION

JOHN MOORE, *et al.*,

Plaintiff,

v.

UNILEVER UNITED STATES, INC.; *et al.*,

Defendants.

Case No.: CIV1500844

OK **PROPOSED** JUDGMENT PURSUANT  
TO TERMS OF PROPOSITION 65  
SETTLEMENT AND CONSENT  
JUDGMENT AS TO OKABASHI  
BRANDS, INC. AND D.W.L.  
INTERNATIONAL TRADING, INC.

Date: ~~1/29/15~~ 1/27/2016  
Time: 8:30 AM  
Dept. B  
Judge: Hon. Roy O. Chernus

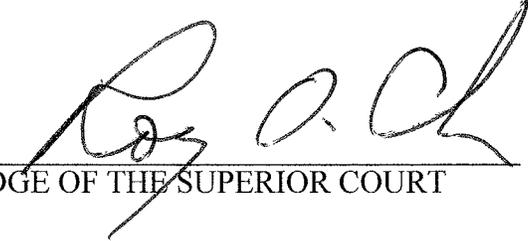
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In the above-entitled action, plaintiffs Anthony E. Held, Ph.D., P.E. and John Moore and defendants Okabashi Brands, Inc. and D.W.L. International Trading, Inc., having agreed through their respective counsel that Judgment be entered pursuant to the terms of their settlement agreement in the form of a Consent Judgment, and following this Court's issuance of an Order approving the Proposition 65 settlement and Consent Judgment on 1/27/16:

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 Judgment attached hereto as **Exhibit A**. By stipulation of the parties, the Court will retain jurisdiction to enforce the settlement under Code of Civil Procedure § 664.6.

**IT IS SO ORDERED.**

Dated: 1/27/16

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

# **EXHIBIT A**

1 Josh Voorhees, State Bar No. 241436  
2 THE CHANLER GROUP  
3 2560 Ninth Street  
4 Parker Plaza, Suite 214  
5 Berkeley, CA 94710-2565  
6 Telephone: (510) 848-8880  
7 Facsimile: (510) 848-8118

8 Attorneys for Plaintiffs  
9 JOHN MOORE and  
10 ANTHONY E. HELD, PH.D., P.E.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF MARIN  
13 UNLIMITED CIVIL JURISDICTION

14 JOHN MOORE, *et al.*,

15 Plaintiff,

16 v.

17 UNILEVER UNITED STATES, INC., *et al.*,

18 Defendants.

Case No. CIV1500844

**[PROPOSED] CONSENT JUDGMENT  
AS TO D.W.L. INTERNATIONAL  
TRADING, INC. AND OKABASHI  
BRANDS, INC.**

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

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between: John Moore (“Moore”) and D.W.L.  
4 International Trading, Inc. (“D.W.L.”); and Anthony E. Held, Ph.D., P.E. (“Held”) and Okabashi  
5 Brands, Inc. (“Okabashi”). D.W.L. and Okabashi are referred to collectively hereinafter as  
6 “Defendants”, and Moore and Held are referred to collectively hereinafter as “Plaintiffs”). Moore,  
7 Held, D.W.L., and Okabashi are each individually referred to herein as a “Party” and collectively as  
8 the “Parties.”

9 **1.2 Plaintiffs**

10 Plaintiffs are each individuals residing in California seeking to promote awareness of  
11 exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous  
12 substances contained in consumer products.

13 **1.3 Defendants**

14 Defendants each employ ten or more individuals and are each a “person in the course of doing  
15 business” for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and  
16 Safety Code section 25249.6 *et seq.* (“Proposition 65”).

17 **1.4 General Allegations**

18 Moore alleges that DWL manufactures, imports, sells, or distributes for sale in California,  
19 vinyl/PVC gloves that contain diisononyl phthalate (“DINP”) without first providing the exposure  
20 warning required by Proposition 65. Further, Held alleges that Okabashi manufactures, imports,  
21 sells, or distributes for sale in California, vinyl/PVC footwear containing diisononyl phthalate  
22 (“DINP”) without first providing the exposure warning required by Proposition 65. DINP is listed  
23 pursuant to Proposition 65 as a chemical known to the State of California to cause cancer.

24 **1.5 Product Description**

25 As to D.W.L., the products covered by this Consent Judgment are vinyl/PVC gloves  
26 containing DINP including, but not limited to, the *Winco Disposable Vinyl Gloves, Style # GLV-M,*  
27 *#53, UPC No. 8 11642 01756 7,* manufactured, imported, sold, or distributed for sale in California by  
28

1 D.W.L., hereinafter the “Gloves”.

2 As to Okabashi, the products covered by this Consent Judgment are vinyl/PVC footwear  
3 containing DINP including, but not limited to, the *Okabashi Flip Flops Maui, UPC No. 0 42929*  
4 *91023 7*, manufactured, imported, sold, or distributed for sale in California by Okabashi, hereinafter  
5 the “Footwear”.

6 **1.6 Notice of Violation**

7 On or about December 22, 2014, Moore served D.W.L. and certain requisite public  
8 enforcement agencies with a “60-Day Notice of Violation” (“Glove Notice”) alleging that D.W.L.  
9 violated Proposition 65 by failing to warn its customers and consumers in California that the Gloves  
10 expose users to DINP.

11 On that same date, Held served Okabashi and certain requisite public enforcement agencies  
12 with a “60-Day Notice of Violation” (“Footwear Notice”) alleging that Okabashi violated Proposition  
13 65 by failing to warn its customers and consumers in California that the Footwear exposes users to  
14 DINP.

15 The Footwear Notice and the Glove Notice are hereinafter referred to as the “Notices”.  
16 To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently  
17 prosecuting the allegations set forth in the Notices.

18 **1.7 Complaint**

19 On March 5, 2015, Plaintiffs filed an instant action (“Complaint”), naming various defendants  
20 for Proposition 65 allegations concerning exposures to DINP in California. Among them, D.W.L.  
21 was named for its alleged violations of Health and Safety Code section 25249.6 that are the subject of  
22 the Glove Notice, and Okabashi was named for its alleged violations of Health and Safety Code  
23 section 25249.6 that are the subject of the Footwear Notice.

24 **1.8 No Admission**

25 D.W.L. denies the material, factual, and legal allegations contained in the Glove Notice and  
26 Complaint, and it maintains that all of the products that it has sold and distributed for sale in  
27 California, including the Gloves, have been, and are, in compliance with all laws.  
28

1 Okabashi denies the material, factual, and legal allegations contained in the Footwear Notice  
2 and Complaint, and it maintains that all of the products that it has sold and distributed for sale in  
3 California, including the Footwear, have been, and are, in compliance with all laws. Okabashi further  
4 asserts that it has reformulated the Products to eliminate all phthalates, including DINP, to ensure  
5 continued compliance with Proposition 65.

6 Nothing in this Consent Judgment shall be construed as an admission of any fact, finding,  
7 conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent Judgment  
8 constitute or be construed as an admission of any fact, finding, conclusion of law, issue of law, or  
9 violation of law. This Section shall not, however, diminish or otherwise affect Defendants'  
10 obligations, responsibilities, and duties under this Consent Judgment.

### 11 **1.9 Jurisdiction**

12 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
13 jurisdiction over Defendants as to the allegations contained in the Complaint, that venue is proper in  
14 the County of Marin, and that the Court has jurisdiction to enter and enforce the provisions of this  
15 Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

### 16 **1.10 Effective Date**

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

## 19 **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

### 20 **2.1 Okabashi**

21 Commencing on the Effective Date, and continuing thereafter Okabashi shall only  
22 manufacture for sale, import for sale, sell, or distribute for sale, in California, "Reformulated  
23 Products."

24 As to Okabashi Reformulated Products are Footwear containing DINP in concentrations less  
25 than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection  
26 Agency testing methodologies 3580A and 8270C or other methodology utilized by federal or state  
27 government agencies for the purpose of determining DINP content in a solid substance.

### 28 **2.2 DWL**





1 a single check made payable to "Held, Client Trust Account" in the amount of \$3,000. Plaintiffs'  
2 counsel shall be responsible for delivering OEHHA's portion of the penalty payments to OEHHA.  
3 D.W.L and Okabashi shall only each be responsible for half of the civil penalty payment. Failure of  
4 one Party to make any payment required under this Consent Judgment shall have no effect  
5 whatsoever on any other Party.

### 6 **3.2 Reimbursement of Attorney's Fees and Costs**

7 The parties acknowledge that Plaintiffs and their counsel offered to resolve this dispute  
8 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the  
9 issue to be resolved after the material terms of this Consent Judgment had been settled. Shortly after  
10 the other settlement terms had been finalized, Defendants expressed a desire to resolve Plaintiffs' fees  
11 and costs. The Parties then attempted to (and did) reach an accord on the compensation due to  
12 Plaintiffs and their counsel under general contract principles and the private attorney general doctrine  
13 codified at California Code of Civil Procedure section 1021.5 for all work performed through the  
14 mutual execution of this Consent Judgment. On or before the Effective Date, Defendants shall each  
15 pay \$16,000 for a total of \$32,000 in attorneys' fees and costs incurred by Plaintiffs investigating,  
16 bringing this matter to Defendants' attention, litigating and negotiating a settlement in the public  
17 interest. Each defendant shall pay one half of the fees and costs. D.W.L and Okabashi shall only  
18 each be responsible for half of the civil penalty payment. Failure of one Party to make any payment  
19 required under this Consent Judgment shall have no effect whatsoever on any other Party.

### 20 **3.3 Payments Held in Trust**

21 All payments due under this Consent Judgment shall be held in trust until such time as the  
22 Court approves the Parties' settlement. All payments due under this agreement shall be delivered  
23 within five (5) days of the date that this Consent Judgment is fully executed by the Parties, and held  
24 in trust by Plaintiffs' counsel until the Court grants the motion for approval of this Consent  
25 Judgment contemplated by Section 5. Within two business days of the Court's approval of this  
26 Consent Judgment, Defendants' counsel shall tender the initial civil penalty payments and attorneys'  
27 fee and costs reimbursements required by Sections 3.1 and 3.2.

1           **3.4    Payment Address**

2           All payments required by this Consent Judgment shall be delivered to the following  
3 address:

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

7           **4.    CLAIMS COVERED AND RELEASED**

8                   **4.1    Plaintiffs’ Public Release of Proposition 65 Claims**

9           Plaintiffs, each acting on his own behalf and in the public interest, release Defendants and  
10 their parents, subsidiaries, affiliated entities under common ownership, directors, officers,  
11 employees, and attorneys (“Releasees”) and each entity to whom it directly or indirectly distributes  
12 or sells the Gloves sold by D.W.L. or the Footwear sold by Okabashi including, but not limited to,  
13 downstream distributors, wholesalers, customers, retailers, franchisers, cooperative members,  
14 licensors and licensees (“Downstream Releasees”) for any violations arising under Proposition 65  
15 for unwarned exposures to DINP from the Gloves sold by D.W.L. or to DINP from the Footwear  
16 sold by Okabashi prior to the Effective Date, as set forth in the Notice.

17                   **4.2    Plaintiffs’ Individual Release of Claims**

18           Plaintiffs, each in his individual capacity only and *not* in his representative capacity, also  
19 provide a release to Defendants, Releasees, and Downstream Releasees which shall be effective as a  
20 full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs,  
21 expenses, attorneys’ fees, damages, losses, claims, liabilities and demands of Plaintiffs of any nature,  
22 character or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or  
23 actual exposures to DINP in the Gloves sold or distributed for sale by D.W.L. and in the footwear  
24 sold or distributed by Okabashi, before the Effective Date.

25           ///  
26           ///  
27           ///  
28           ///

1           **4.3 Defendants' Release of Plaintiffs**

2           Defendants, each on its own behalf, and on behalf of its past and current agents,  
3 representatives, attorneys, successors, and assignees, hereby waive any and all claims against  
4 Plaintiffs and their attorneys and other representatives, for any and all actions taken or statements  
5 made by Plaintiffs and their attorneys and other representatives, whether in the course of  
6 investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with  
7 respect to the Gloves sold by D.W.L. and the Footwear sold by Okabashi.

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 Defendants  
20 may provide written notice to Plaintiffs 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 Gloves and  
22 the Footwear are so affected. Nothing in this Consent Judgment shall be interpreted to relieve  
23 Defendants from any obligation to comply with any pertinent state or federal toxics control laws.

24           ///

25           ///

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1 **8. NOTICE**

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

6 **Defendants**

7 David Li, President  
8 D.W.L. International Trading Inc.  
9 65 Industrial Road  
10 Lodi, NJ 07644

Shelley Hurwitz, Esq.  
Holland & Knight  
400 South Hope Street, 8th Floor  
Los Angeles, CA 90071  
*Attorneys for D.W.L. and Okabashi*

11 Bahman Irvani, Chief Executive Officer  
12 Kerry Cunningham, Executive Vice President  
13 Okabashi Brands, Inc.  
14 4823 Roy Carlson Boulevard, Suite A  
15 Buford, GA 30518

16 **Plaintiffs**

17 The Chanler Group  
18 Attn: Proposition 65 Coordinator  
19 2560 Ninth Street  
20 Parker Plaza, Suite 214  
21 Berkeley, CA 94710-2565

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

24 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

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

28 **10. POST EXECUTION ACTIVITIES**

Plaintiffs agree 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

1 approval of their settlement in a timely manner. For purposes of this Section, "best efforts" shall  
2 include, at a minimum, cooperating on the drafting and filing of the necessary moving papers,  
3 supporting the motion, and appearing at the hearing before the Court.

4 **11. MODIFICATION**

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

8 **12. AUTHORIZATION**

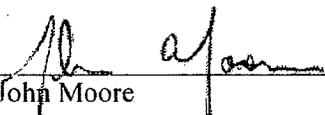
9 The undersigned are authorized to execute this Consent Judgment and have read, understood,  
10 and agree to all of the terms and conditions contained herein.

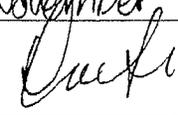
11 **AGREED TO:**

**AGREED TO:**

12  
13 Date: 11/13/2015

Date: November 19, 2015

14  
15 By:   
John Moore

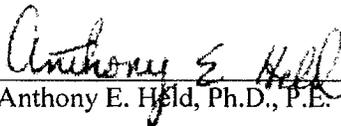
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15 By:   
David Li, President  
D.W.L. International Trading Inc.

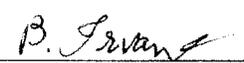
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17 **AGREED TO:**

**AGREED TO:**

18  
19 Date: 11/12/2015

Date: 11. 23. 2015

20  
21 By:   
Anthony E. Held, Ph.D., P.E.

20  
21 By:   
Bahman Irvani, Chief Executive Officer  
Okabashi Brands, Inc.