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VICTORIA JAMISON

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

02/10/2021 at 11:00:00 AM

Clerk of the Superior Court
By Connie Hines, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

VICTORIA JAMISON, an individual

Plaintiff,

v.

SIMPLY HOME SOLUTIONS, Inc., a Delaware
corporation; AMAZON.COM, Inc., a Delaware
corporation; and DOES 1 through 10

Defendants.

Case No.: 37-2020-00037545-CU-MC-CTL

~~PROPOSED~~ CONSENT JUDGMENT
AS TO DEFENDANT SIMPLY HOME
SOLUTIONS, INC.

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement Act
of 1986 (*Health & Safety Code*, § 25249.5,
et seq.)

Action Filed: October 16, 2020
Trial Date: None Set

Plaintiff Victoria Jamison ("Jamison") and Defendant Simply Home Solutions, Inc ("Simply Home Solutions") enter into this Proposed Stipulated Consent Judgment ("Consent Judgment") to settle Jamison's allegations in her Complaint brought under Cal. Health & Safety Code §§ 25249.5 *et seq.* ("Proposition 65"). The effective date of this Consent Judgment shall be the date upon which the Court approves and enters this Consent Judgment (the "Effective Date"). Simply Home Solutions and Jamison are collectively referred to herein as the "Parties" and individually as a "Party."

1 **1. INTRODUCTION**

2 1.1 Jamison is an individual residing in the State of California who seeks to promote
3 awareness of exposure to toxic chemicals and improve human health by reducing or eliminating
4 hazardous substances contained in consumer products.

5 1.2 Simply Home Solutions is a Delaware corporation. Jamison alleges that Simply
6 Home Solutions is a person in the course of doing business as that term is defined in Proposition 65,
7 which Simply Home Solutions does not dispute for the sole purpose of this Consent Judgment and
8 the resolution of the subject claims.

9 1.3 Jamison alleges that Simply Home Solutions has been responsible for the distribution
10 and/or sale, in the State of California, of coin purses (the “Covered Products”) that expose users of
11 the Covered Products to Diethylhexylphthalate (“DEHP”) without first providing “clear and
12 reasonable warning” as required under Proposition 65. DEHP is listed as a chemical known to
13 cause cancer and reproductive harm pursuant to Proposition 65. Simply Home Solutions denies
14 Jamison’s claims and maintains that the Covered Products comply with Proposition 65 and all
15 applicable laws. The Covered Products include coin purses sold in California. However, the
16 Covered Products do not include any coin purses sold, distributed or manufactured by Universal
17 Direct Brands, LLC, Bandwagon, Inc., and/or Channel Sino Enterprises, Ltd.

18 1.4 On or about July 7, 2020, Jamison served Simply Home Solutions, Amazon.com,
19 Inc. and various public enforcement agencies with a document entitled “60-Day Notice of
20 Violation” that provided public enforcers and the noticed entities with notice of alleged violations
21 of Proposition 65 for failing to warn consumers of the presence of DEHP in the Covered Products
22 (the “Notice”). On October 16, 2020, Jamison filed the complaint in this action, naming Simply
23 Home Solutions, Inc. and Amazon.com, Inc. as defendants.

24 1.5 The Parties enter into this Consent Judgment to settle disputed claims and defenses
25 in this action.

26 1.6 By execution of this Consent Judgment, the Parties do not admit any facts or
27 conclusions of law, including, but not limited to, any facts or conclusions of law regarding any
28 violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine.

1 Nothing in this Consent Judgment shall be construed as an admission by the Parties of any fact,
2 conclusion of law, issue of law, or violation of law, except with respect to an action seeking to
3 enforce the terms of this Consent Judgment. Nothing in this Consent Judgment, nor compliance
4 with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an
5 admission or evidence of fault, wrongdoing, or liability by Simply Home Solutions, its officers,
6 directors, employees, members, managers, shareholders, equity owners, parents, subsidiaries or
7 affiliated corporations, in any administrative or judicial proceeding or litigation in any court,
8 agency, or forum. Except for the allegations settled and compromised, nothing in this Consent
9 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense that the parties
10 may have against one another in any other pending legal proceeding as to allegations unrelated to
11 this action or claims released herein.

12 1.7 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
13 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
14 over Simply Home Solutions as to the acts alleged in the Complaint, that venue is proper in the
15 County of San Diego, and that this Court has jurisdiction to enter and enforce this Consent
16 Judgment.

17 **2. RELEASE**

18 2.1 This Consent Judgment is a full, final, and binding resolution between Jamison,
19 on behalf of herself and his past and current agents, representatives, attorneys, successors, and
20 assignees (collectively, the "Releasors"), and on behalf of the public interest, and (a) Simply
21 Home Solutions and Amazon.com, Inc., and each of their directors, officers, employees,
22 attorneys, agents, parents, and subsidiaries, and each entity to whom Simply Home Solutions
23 directly or indirectly distributes or sells Covered Products, including, but not limited to (a)
24 downstream distributors, wholesalers, customers, and retailers; (b) all distributors,
25 wholesalers, customers, retailers, franchisees, cooperative members, and licensees of the
26 entities identified in (a), above; (c) Yiwu Jixin Tracing CO LTD (4TH FLOOR, 316 Shenzhou
27 Road, Houzhai Street, Yiwu City, China); and (d) all past and current owners, parents,
28 subsidiaries, affiliates, sister and related companies, employees, shareholders, officers,

1 directors, insurers, agents, attorneys, predecessors, successors, and assigns of the entities and
2 individuals identified in (a), (b), and (c), above (collectively, the "Releasees"), based on its
3 failure to warn about alleged exposures to DEHP contained in the Covered Product that were
4 manufactured, distributed, sold, or offered for sale to a California customer before the
5 Effective Date (the date this Proposed Consent Judgment is signed by the Parties).

6 2.2 Jamison, on behalf of herself and Releasors, and in the public interest, waives all
7 rights to institute or participate in, directly or indirectly, any form of legal action, and discharges
8 and releases all claims, actions, causes of action (in law or in equity), suits, liabilities, demands,
9 obligations, damages, costs, fines, penalties, losses, expenses and fees (including, but not limited to,
10 investigation fees, expert fees, and attorney's fees), and expenses (collectively, "Claims"), for
11 violations of Proposition 65 alleged in the Notice and the Action from the failure to provide
12 warnings for alleged exposures to DEHP, or for causing alleged exposures to DEHP, in Covered
13 Products manufactured before the Effective Date. Compliance by Simply Home Solutions with
14 Section 3 of this Consent Judgment shall be deemed to constitute compliance by Simply Home
15 Solutions and any Releasee with Proposition 65 with respect to any DEHP in the Covered Products
16 manufactured on or after the Effective Date. Jamison, on behalf of herself and Releasors, also
17 releases and discharges Releasees from any other statutory or common law claim arising from or
18 relating to alleged exposures to DEHP in the Covered Products. This release does not release any
19 products sold, distributed or manufactured by Universal Direct Brands, LLC, Bandwagon, Inc.,
20 and/or Channel Sino Enterprises, Ltd.

21 2.3 Simply Home Solutions, on behalf of itself and Releasees, hereby waives any and all
22 claims against Releasors for any and all actions taken or statements made by Jamison or Releasors
23 in the course of investigating claims or otherwise seeking to enforce Proposition 65 against Simply
24 Home Solutions in this action.

25 2.4 It is possible that other claims not known to the Parties arising out of the facts
26 alleged in the Notice and relating to the Covered Products will develop or be discovered. Jamison,
27 on behalf of herself and Releasors, on one hand, and Simply Home Solutions, on behalf of itself and
28 Releasees on the other hand, acknowledge that this Consent Judgment is expressly intended to cover

1 and include all such claims up through the Effective Date, including all rights of action therefor.
2 The Parties acknowledge that the claims released in Section 2.2 and 2.3 above may also include
3 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
4 unknown claims. California Civil Code section 1542 reads as follows:

5 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
6 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
7 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
8 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
9 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
10 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
11 OR RELEASED PARTY.

12 The Parties each acknowledge and understand the significance and consequences of this specific
13 waiver of California Civil Code section 1542.

14 3. INJUNCTIVE TERMS

15 3.1 After the Effective Date, Simply Home Solutions shall not sell any Covered Products
16 directly to consumers in California or to retailers or distributors that Simply Home Solutions knows
17 will in turn sell to consumers in California the Covered Products that Simply Home Solutions sells
18 to them, unless Simply Home Solutions provides the following warning statement:

19 **Option 1:**

20 **WARNING:** This product can expose you to [chemicals including] Diethylhexylphthalate
21 ("DEHP"), which is known to the State of California to cause cancer and birth defects or
22 other reproductive harm. For more information, go to www.P65Warnings.ca.gov.

23 Terms in bracketing are optional. The word "**WARNING**" shall be displayed in all capital letters
24 and bold print on the Covered Products or their packaging. This warning statement shall be
25 prominently displayed on the Covered Product, on the packaging of the Covered Product, or on a
26 placard, shelf tag, or sign, provided that the statement is displayed with such conspicuousness, as
27 compared with other words, statements, or designs as to render it likely to be read and understood
28 by an ordinary individual prior to sale. If the warning statement is displayed on the Product's label,
it must be set off from other surrounding information and enclosed in a text box. If the warning
statement is displayed on a placard, shelf tag, or sign where the Product is offered for sale, the
warning placard or sign must enable an ordinary individual to easily determine which Products the

1 warning applies to, and to differentiate between the Products and other products to which the
2 warning statement does not apply.

3 3.2 Covered Products sold, shipped, or distributed for sale by Simply Home Solutions in
4 California prior to the Effective Date may be sold in California after the Effective Date without any
5 Proposition 65 warning.

6 3.3 In addition, Simply Home Solutions shall follow the notification procedure set out in
7 Title 27 California Code of Regulations section 25600.2 or a similar procedure where Simply Home
8 Solutions instructs its distributor or retailer customers to provide warnings for the Covered Products
9 consistent with Section 3.1 above.

10 3.4 Nothing in this Consent Judgment shall be interpreted to relieve Simply Home
11 Solutions from any obligation to comply with any other pertinent state or federal law or regulation.

12 4. PAYMENTS

13 4.1 Simply Home Solutions agrees to pay a total settlement amount of \$27,000 as
14 outlined herein:

15 4.1.1 Penalty: Simply Home Solutions shall issue two separate checks for a total
16 of \$3,000 as penalties pursuant to Health & Safety Code § 25249.12: (a) one check made payable to
17 the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the
18 amount of \$2,250 representing 75% of the total penalty; and (b) one check to Victoria Jamison in
19 the amount of \$750, representing 25% of the total penalty. The OEHHA check shall be mailed to
20 OEHHA directly and the check for Jamison shall be delivered to: The Law Offices of George
21 Rikos, 555 West Beech Street, Suite 500, San Diego, California 92101. The Penalty checks shall be
22 issued within 10 days after the Court approves and enters this Proposed Consent Judgment.

23 4.1.2 Attorneys' Fees and Costs: Simply Home Solutions shall issue three checks
24 for \$24,000 to the Law Offices of George Rikos, as Jamison's attorneys, for its investigation fees
25 and costs and attorneys' fees and costs. The checks shall be delivered to: The Law Offices of
26 George Rikos, 555 West Beech Street, Suite 500, San Diego, California 92101. The first payment
27 of \$8,000 shall be issued within 10 days following the Court's execution of this Proposed Consent
28 Judgment. The second payment of \$8,000 shall be issued 30 days following the date of entry by the

1 Court of this Proposed Consent Judgment. The final and third payment of \$8,000 shall be issued 60
2 days following the date of entry by the Court of this Proposed Consent Judgment.

3 **5. EXECUTION IN COUNTERPARTS AND FACSIMILE**

4 5.1 This Consent Judgment may be executed in counterparts, which taken together shall
5 be deemed to constitute the same document. A facsimile or portable document format (PDF)
6 signature shall be as valid as the original.

7 **6. ENTIRE AGREEMENT**

8 6.1 This Consent Judgment contains the sole and entire agreement and understanding of
9 the Parties with respect to the entire subject matter hereof, and all related prior discussions,
10 negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to
11 bind any of the Parties.

12 **7. MODIFICATION OF CONSENT JUDGMENT**

13 7.1 This Consent Judgment may be modified from time to time by express written
14 agreement of the Parties, with the approval of the Court and prior notice to the Attorney General's
15 Office, or by an order of this Court upon motion and prior notice to the Attorney General's Office
16 and in accordance with law.

17 7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
18 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

19 **8. APPLICATION OF CONSENT JUDGMENT**

20 8.1 This Consent Judgment shall apply to, be binding upon, and inure to the benefit of,
21 Jamison and the Releasors identified in Section 2 above.

22 **9. ENFORCEMENT OF CONSENT JUDGMENT**

23 9.1 Any Party may file a motion with the Court consistent with the terms and conditions
24 set forth in paragraph 9.2 of this Consent Judgment, to enforce the terms and conditions contained
25 in this Consent Judgment. The prevailing Party shall be entitled to its reasonable attorneys' fees
26 and costs incurred in such enforcement.

27 9.2 Prior to bringing any motion, order to show cause, or other proceeding to enforce
28 any terms of this Agreement, Jamison shall provide a Notice of Violation ("NOV") to Simply Home

1 Solutions. The NOV shall include, for each Covered Product alleged to be violation of this
2 Agreement: the date of alleged violations(s), place of sale, date and proof of purchase (if relevant),
3 and any test data obtained by Jamison regarding each such Covered Product. Jamison shall take no
4 further action regarding any alleged violation nor seek any monetary recovery for herself, his agents
5 or his counsel if, within 30 days of receiving such NOV, Simply Home Solutions demonstrates that
6 no such violation of this Agreement has occurred. Should Jamison, after receiving Simply Home
7 Solutions' response to the NOV, contend that a violation of the Agreement as has occurred, the
8 Parties shall meet and confer concerning resolution of such dispute for a period of at least 30 days,
9 following which either Party may seek relief under Section 9.1.

10 **10. NOTIFICATION REQUIREMENTS**

11 10.1 Any notice required or permitted hereunder shall be effective only if given in writing
12 and delivered in person, certified or registered mail return receipt requested, or traceable overnight
13 delivery service, to the following designees:

14 For Jamison:
15 Law Offices of George Rikos
16 555 West Beech Street, Suite 500
17 San Diego, California 92101

18 For Simply Home Solutions:

19 Simply Home Solutions, Inc.
20 1679 South Dupont Highway
21 Suite 100
22 Dover DE 19901

23 Any Party may change its designee(s) for purposes of notification by providing written notice of
24 such change pursuant to this section.

25 **11. SEVERABILITY**

26 11.1 If, subsequent to the execution of this Consent Judgment, any of the provisions of
27 this Consent Judgment are held by a court to be unenforceable, the validity of the enforceable
28 provisions remaining shall not be adversely affected, unless the Court finds that any unenforceable
provision is not severable from the remainder of this Agreement.

1 **12. GOVERNING LAW**

2 12.1 The terms of this Consent Judgment shall be governed by the laws of the State of
3 California and apply within the State of California. In the event that Proposition 65 or its
4 implementing regulations are repealed, preempted, found by a court of competent jurisdiction to be
5 otherwise unlawful or unconstitutional with respect to products similar to the Covered Products, or
6 are rendered inapplicable by reason of law generally, or if the lead agency for Proposition 65
7 (currently OEHHA) takes some other final regulatory action for products similar to the Covered
8 Products in a manner that impacts the no significant or alternative risk level for DEHP or otherwise
9 determines that warnings for DEHP are not required for such products as currently produced or as
10 they may be reformulated, then Simply Home Solutions may provide written notice to Jamison and
11 may manufacture, sell, ship for sale, and/or distribute Covered Products for sale in California
12 without a warning if the Covered Products do not create an exposure to DEHP in excess of any
13 changed or modified safe harbor no significant risk level or alternative risk level or other
14 requirement of the lead agency for Proposition 65.

15 **13. COURT APPROVAL**

16 13.1 This Consent Judgment is not effective until it is approved and entered by the Court.
17 The Parties acknowledge that, pursuant to California Health and Safety Code section 25249.7(f), a
18 noticed motion is required for judicial approval of this Consent Judgment, which Jamison shall
19 prepare and file.

20 **14. RETENTION OF JURISDICTION**

21 14.1 This Court shall retain jurisdiction of this matter to implement or modify the Consent
22 Judgment.

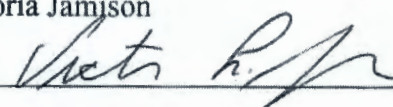
23 **15. REPORTING OF THE CONSENT JUDGMENT**

24 15.1 Jamison agrees to comply with the reporting requirements referenced in Health and
25 Safety Code section 25249.7(f).

26
27 **IT IS SO STIPULATED:**
28

1
2
3 Dated: 12/17/20

Victoria Jamison

By: 

Printed Name: Victoria L. Jamison

Title: _____

4
5
6
7 Dated: 12/17/2020

Simply Home Solutions, Inc.


By:  Joshua Levine (Dec 17, 2020 12:19 EST)

Printed Name: Joshua Levine

Title: General Counsel, Authorized Representative

11 IT IS SO ORDERED:

12
13 Dated: 2/10/2021



Judge of the Superior Court

Judge Ronald L. Styn