

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

A.J. WHOLESALE DISTRIBUTORS, INC.

Consumer Advocacy Group, Inc., on behalf of itself and suing in the public interest pursuant to Health and Safety Code section 25249.7, subdivision (d) ("CAG") and A.J. Wholesale Distributors, Inc. ("A.J. WHOLESALE") (collectively, "Parties") enter into this agreement ("Settlement Agreement") to settle the case entitled *Consumer Advocacy Group, Inc. v. Valley Industries Corp.* filed on August 26, 2008, and pending in the Superior Court of California for the County of San Francisco, Case No. CGC-08-479129 (the "Lawsuit"), as follows:

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 A.J. WHOLESALE is the manufacturer or distributor of certain "consumer products" as defined under California Code of Regulations, title 22, section 12601. The consumer products in question are lead-containing products such as (i) "PIT BULL" brand 10pcx105gm Battery Terminal (12/C) Item No. CHITAM10; (ii) "PIT BULL" brand 5Pcs Soldering Gun (Item No.: CHIG001302 (collectively referred to as "Covered Products")

1.3 CAG alleges that the Covered Products contain lead. On February 27, 1987, the Governor of California added lead to the list of chemicals known to the State under the California Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, §§ 25249.5, et seq.) ("Proposition 65") to cause reproductive toxicity, reproductive, female, male. Twenty months after its inclusion in the list, lead became subject fully to the discharge prohibitions and warning requirements of Proposition 65.

1.4 On June 9, 2008, CAG served public enforcement agencies and A.J. WHOLESALE with the second of two documents entitled "Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986" ("Notice"). The Notice alleged that A.J. WHOLESALE violated Proposition 65 by failing to warn consumers in California that use of the Covered Products exposes persons to lead.

1.5 On August 26, 2008, CAG filed the Lawsuit alleging A.J. WHOLESale violated Proposition 65 by exposing persons to the lead found in the Covered Products without providing "clear and reasonable" warnings. The alleged exposures constitute "consumer product" exposures.

1.6 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below.

1.7 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by A.J. WHOLESale, its officers, directors, employees, or parent, subsidiary or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the cause of action and allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG and A.J. WHOLESale may have against one another in any other pending legal proceeding as to allegations unrelated to those alleged in the Lawsuit.

2.0 Release

2.1 Upon court approval of the settlement between the Parties, and execution of the obligations under this Settlement Agreement, CAG fully releases and forever discharges A.J. WHOLESale, predecessors, successors, and assigns and all officers, directors, and employees of any of the released entities (collectively, "Released Parties") from all known and unknown rights, claims, causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and attorney fees, costs, and expenses related to or arising out of the facts and claims alleged in the Lawsuit. Without limiting the foregoing, the Parties intend the scope of this release to cover all Claims Covered (as defined in Section 3 below) as to the Released Parties put in controversy by the Lawsuit. This release shall not extend to any of A.J. WHOLESale's customers regardless of whether they are an end user or otherwise fabricate, combine and/or assemble the part(s) into other products.

2.2 CAG has full knowledge of the contents of Section 1542 of the Civil Code. CAG acknowledges that the claims released in section 2.1 above may

include unknown claims and waives Section 1542 as to any such unknown claims. Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

CAG acknowledges and understands the significance and consequences of this specific waiver of Civil Code Section 1542.

2.3 CAG further agrees to execute and file with the court presiding over the Lawsuit a Consent Judgment approved by the Parties, an executed copy of which shall be provided by A.J. WHOLESale to CAG with the execution of this Settlement Agreement.

3.0 Claims Covered

3.1 This Settlement Agreement is a final and binding resolution between CAG and the Released Parties of the following claims and cause of action:

All Proposition 65 labeling violations for lead containing products (known or suspected) that it has sold and/or placed into the stream of commerce prior to the date of settlement. Claims that could have been asserted in the Lawsuit arising from allegations that the Released Parties exposed, knowingly and intentionally, users of Covered Products and others in proximity to such use to lead, a chemical designated by the State to cause cancer, without first giving clear and reasonable warning of such to persons exposed up to the effective date of this Settlement Agreement.

4.0 Defendant's Duties

4.1 A.J. WHOLESale agrees, promises, and represents that upon CAG'S execution of this Settlement Agreement, it will prepare and attach Proposition 65 warning labels to all known lead containing products sold or distributed by A.J. WHOLESale, and which it intends to sell or distribute in California, indicating that the product contains lead. The warning label shall read as follows:

WARNING: *This product contains lead, a chemical known to the State of California to cause cancer, and birth defects or other reproductive harm.*

5.0 Payments

5.2 Payment to Yeroushalmi & Associates. Within 10 days from the approval date of this Settlement Agreement, A.J. WHOLESale shall pay CAG \$50,000, for its attorney fees and costs incurred in this matter. The check shall be made to "Yeroushalmi & Associates."

6.0 Authority to Enter Into Settlement Agreement

6.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of CAG and to bind legally CAG. A.J. WHOLESale represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of EMPI and to bind legally A.J. WHOLESale.

7.0 Attorney General Review

7.1 Consistent with section 3003, subdivision (a) of Title 11 of the California Code of Regulations, CAG shall submit this Settlement Agreement to the Attorney General's Office for review within five days of the Parties' execution of this Settlement Agreement.

7.2 Following submittal to the Attorney General, the Parties shall proceed as set forth in this Settlement Agreement.

8.0 Execution in Counterparts and Facsimile

8.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or pdf signature shall be as valid as the original.

9.0 Entry of Judgment Pursuant to Settlement Agreement Required

9.1 CAG shall submit this Settlement Agreement to the Court for consideration as required by Health and Safety Code section 25249.7, subdivision (f)(4). CAG will provide the Court with the necessary information to allow the Court to make the findings required by Health and Safety Code section 25249.7, subdivision (f)(4)(A)-(C).

10.0 Entire Agreement

10.1 This Settlement Agreement and the accompanying executed Consent Judgment contain the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions,

negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

11.0 Modification of Settlement Agreement

11.1 Any modification to this Settlement Agreement shall be in writing by the Parties.

12.0 Application of Settlement Agreement

12.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, the CAG and the Released Parties identified in Section 2.1 above.

13.0 Notification Requirements

13.1 Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi
Yeroushalmi & Associates
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
Fax: 213.382.3430

For A.J. WHOLESale:

Jason R. Chermela, Esq.
LEWIS, BRISBOIS,
BISGAARD & SMITH
221 n. Figueroa Street
Suite 1200
Los Angeles, CA 90012
Fax: (213) 250-7900


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

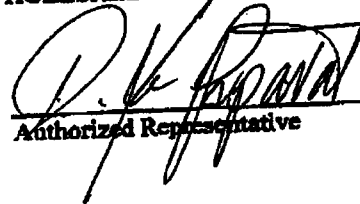
CONSUMER ADVOCACY GROUP, INC.

Dated: 10/13/09

By: 
Lyn Marcus, President

A.J. WHOLESALE DISTRIBUTORS, INC.


Dated: 8-14-09

By: 
Authorized Representative

As to form only:

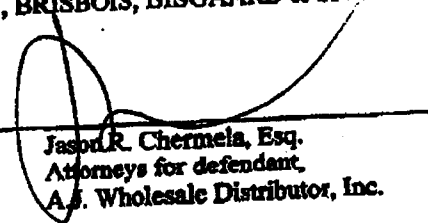
YERUSHALMI & ASSOCIATES

Dated: 10/12/09

By: 
Reuben Yerushalmi
Attorneys for plaintiff,
Consumer Advocacy Group, Inc.

LEWIS, BRISBOIS, BISGAARD & SMITH

Dated: 8/28/09

By: 
Jason R. Chermela, Esq.
Attorneys for defendant,
A.J. Wholesale Distributor, Inc.