

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony Held and Atico International USA, Inc.

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E (hereinafter "Held") and Atico International USA, Inc., (hereinafter "Atico"), with Held and Atico collectively referred to as the "Parties." Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Atico employs ten or more persons and is a person in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Held alleges that Atico has manufactured, distributed and/or sold in the State of California, sporting toys and children's items containing di(2ethylhexyl)phthalate (DEHP) including, but not limited to, a *Baseball Glove & Ball, Item #578856 (#0 49022 33930 9)*. The chemical, di(2ethylhexyl)phthalate (DEHP), is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 et seq. ("Proposition 65"), as a chemical known to the State of California to cause birth defects and other reproductive harm. Di(2ethylhexyl)phthalate (DEHP) shall be referred to herein as the "Listed Chemical."

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as follows:

sporting toys and children's items sold by Atico which contain di(2ethylhexyl)phthalate (DEHP) including, but not limited to, a *Baseball Glove & Ball, Item #578856 (#0 49022 33930 9)*, *Soft Balls, Item #578945 (#0 49022 33925 5)* and *Blood Bag, Item #221842 (#0 49022 41185 2)*. All such items shall be referred to herein as the "Products."

1.4 Notices of Violation

On or about April 22, 2008 Held served Walgreen Co. and East West Distributing Co. (hereinafter "Walgreen/East West") and various public enforcement agencies with a document entitled "60-Day Notice of Violation" that provided Walgreen/East West and such public enforcers with notice that alleged that Walgreen/East West were in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the Products that Walgreen/East West sold and/or distributed exposed users in California to the Listed Chemical. On October 17, 2008, and November 28, 2008, Held also served Atico and various public enforcement agencies with documents entitled "60-Day Notice of Violation" (collectively, the "Notice") that provided Atico and such public enforcers with notice that alleged that Atico was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the Products manufactured sold and/or distributed by Atico exposed users in California to the Listed Chemical.

1.5 No Admission

Atico denies the material factual and legal allegations contained in Held's Notice and maintains that all products that it has manufactured, sold and/or distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Atico of any fact, finding, issue of

law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Atico of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Atico. However, this Section shall not diminish or otherwise affect the obligations, responsibilities and duties of Atico under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean December 20, 2008.

2. INJUNCTIVE RELIEF: REFORMULATION

As of the Effective Date, Atico shall only manufacture or distribute or cause to be manufactured or distributed Products for sale in California that are Phthalate Free, as set forth below. For purposes of this Settlement Agreement "Phthalate Free" Products shall mean Products containing less than or equal to 1,000 parts per million ("ppm"), which equates to 0.1%, of the Listed Chemical, when analyzed pursuant to Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE §25249.7(B)

In settlement of all the claims referred to in this Settlement Agreement, Atico shall pay, on behalf of itself and Walgreen/East West, \$8,000 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies remitted to Held as provided by California Health & Safety Code §25249.12(d). Atico shall issue two separate checks, on or before January 16, 2009, for the

penalty payment: (a) one check made payable to Hirst & Chanler LLP in Trust for the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of \$6,000, representing 75% of the total penalty and (b) one check to Hirst & Chanler LLP in Trust for Held in the amount of \$2,000 representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of \$6,000. The second 1099 shall be issued to Held in the amount of \$2,000, whose address and tax identification number shall be furnished to counsel for Atico five calendar days before payment is due.

4. REIMBURSEMENT OF FEES AND COSTS

The parties reached an accord on the compensation due to Held and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles Atico shall reimburse Held's counsel for fees and costs, incurred as a result of investigating, bringing this matter to the attention of Atico and Walgreen/East West, and negotiating a settlement in the public interest. Atico shall pay Held and his counsel \$36,000 for all attorneys' fees, expert and investigation fees, and related costs. The payment shall be made payable to Hirst & Chanler, LLP and shall be delivered on or before January 16, 2009, to the following address:

HIRST & CHANLER LLP
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

5. RELEASE OF ALL CLAIMS

5.1 Held's Release of Atico and Its Downstream Chain of Distribution Including Walgreen Co. and East West Distributing Co.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Held, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, and in the interest of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against Atico and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers and distributors (specifically including, but not limited to, Walgreen, Co. and East West Distributing Co.), franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This release is limited to those claims that arise under Proposition 65, as such claims relate to Atico's and Walgreen's East West's alleged failure to warn about exposures to or identification of the Listed Chemical contained in the Products.

Dr. Held also, in his individual capacity only and *not* in his representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees,

damages, losses, claims, liabilities and demands of Dr. Held of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject matter of the Notice.

Dr. Held acknowledges that he is familiar with Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Dr. Held, in his individual capacity only and *not* in his representative capacity, expressly waives and relinquishes any and all rights and benefits which he may have under, or which may be conferred on him by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

The Parties further understand and agree that this release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Atico.

5.2 Atico's Release of Held

Atico waives any and all claims against Held, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Held and his attorneys and other representatives, whether in the course of investigating claims or

otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Atico shall provide written notice to Held of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by the other party at the following addresses:

To Atico:

Legal Department
Atico International USA, Inc.
501 S. Andrews Avenue
Fort Lauderdale, FL 33301

and:

Renée D. Wasserman
Rogers Joseph O'Donnell
Robert Dollar Building, 10th Floor
311 California Street
San Francisco, CA 94104

To Held:

Proposition 65 Controller
Hirst & Chanler, LLP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

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

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

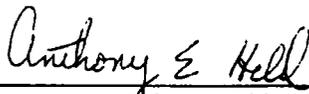
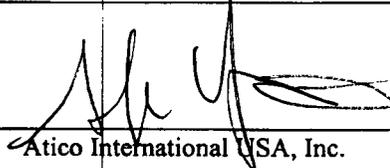
Held agrees to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f).

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. **AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:	AGREED TO:
Date: <u>1/7/2009</u>	Date: <u>1-12-09</u>
By: <u></u> Anthony Held	By: <u></u> Atico International USA, Inc.