

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony E. Held, Ph.D., P.E. and Easter Unlimited, Inc.

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (hereinafter "Held") and Easter Unlimited, Inc. (hereinafter "Easter Unlimited"), with Held and Easter Unlimited collectively referred to as the "Parties." Held is an individual residing in California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Easter Unlimited employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* (hereinafter "Proposition 65").

1.2 General Allegations

Held alleges that Easter Unlimited manufactured, distributed and/or sold in the State of California children's soft vinyl balls containing di(2-ethylhexyl)phthalate (hereinafter "DEHP") without the requisite health hazard warnings. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm. DEHP shall be referred to hereinafter as the "Listed Chemical."

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as follows: children's soft vinyl balls containing DEHP, including, but not limited to *Spooky Balls*, #8376 (#0 23168 08376 0). All such items shall be referred to herein as the "Products".

1.4 Notice of Violation

On December 23, 2008, Held served Easter Unlimited and various public enforcement agencies with a document entitled "60-Day Notice of Violation" (hereinafter "Notice") that provided Easter Unlimited and such public enforcers with notice that alleged that Easter Unlimited was in violation of Proposition 65 for failing to warn consumers and customers that the Products exposed users in California to the Listed Chemical.

1.5 No Admission

Easter Unlimited denies the material, factual and legal allegations contained in Held's Notice and maintains that all products that it has manufactured, sold and 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 Easter Unlimited 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 Easter Unlimited of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Easter Unlimited. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of Easter Unlimited under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean May 21, 2009.

2. INJUNCTIVE RELIEF: REFORMULATION IN LIEU OF WARNINGS

2.1 Reformulation Commitments and Schedule

Easter Unlimited discontinued the sale and shipment of the Products in the United States in 2005, discontinued the sale and shipment of the Products outside the United

States in 2007, and is not involved in the sale, shipment, and offer for sale or shipment of the Products into the State of California.

In the event such Products are sold, shipped or offered to be shipped for sale in California after the Effective Date, such Products sold or shipped for sale in California shall be Phthalate Free. For purposes of this Settlement Agreement, "Phthalate Free" Products shall mean Products containing less than or equal to 1,000 parts per million ("ppm") of the Listed Chemical when analyzed pursuant to Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C. Products that are Phthalate Free shall be referred to herein as "Reformulated Products."

3. MONETARY PAYMENTS

In settlement of all claims referred to in this Settlement Agreement, Easter Unlimited shall pay \$2,000 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 ("OEHHA") and the remaining 25% of the penalty remitted to Anthony Held as provided by California Health & Safety Code §25249.12(d). Easter Unlimited shall issue two separate checks for the penalty payment: (a) one check made payable to "Hirst & Chanler LLP in Trust For OEHHA" in the amount of \$1,500 representing 75% of the total penalty; and (b) one check to "Hirst & Chanler LLP in Trust for Anthony Held" in the amount of \$500 representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486); and (b) Anthony Held, whose information shall be provided prior to payment. Held will cause a W-9 Form with respect to himself to be provided to Easter Unlimited or Easter Unlimited's counsel prior to payment.

Payment shall be delivered to Dr. Held's counsel on or before June 10, 2009, at the following address:

Hirst & Chanler LLP
Attn: Proposition 65 Controller
2560 Ninth Street, Suite 214
Berkeley, CA 94710

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Held and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Easter Unlimited then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure (CCP) § 1021.5, for all work performed through the mutual execution of this agreement. Easter Unlimited shall reimburse Held and his counsel the total of \$15,800 for fees and costs incurred as a result of investigating, bringing this matter to Easter Unlimited's attention and negotiating a settlement in the public interest. Hirst & Chanler LLP will cause a completed W-9 Form with respect to itself to be provided to Easter Unlimited or Easter Unlimited's counsel prior to payment. Easter Unlimited shall issue a 1099 to Hirst & Chanler LLP for the above fees and costs. The payment shall be made payable to "Hirst & Chanler LLP" and shall be delivered in three installments. The first installment of \$5,266.66 shall be delivered on or before June 10, 2009; the second installment of \$5,266.66 shall be delivered on July 10, 2009; and the third installment of \$5,266.68 shall be delivered on or before August 10, 2009. Each installment shall be delivered to the following address:

Hirst & Chanler LLP
Attn: Proposition 65 Controller
2560 Ninth Street, Suite 214
Berkeley, CA 94710

5. RELEASE OF ALL CLAIMS

5.1 Release of Easter Unlimited and Downstream Customers

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4, Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and on behalf of the general public to the extent allowed by law, 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 Easter Unlimited and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers, 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 Easter Unlimited's alleged failure to warn about exposures to or identification of the Listed Chemical contained in the Products. 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 Easter Unlimited.

5.2 Easter Unlimited's Release of Held

Easter Unlimited 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. ATTORNEYS' FEES

In the event that, after the execution of this Settlement Agreement: (1) Easter Unlimited seeks modification of this Settlement Agreement; or (2) Easter Unlimited fails to comply with the terms of the Settlement Agreement and Held takes reasonable and necessary steps to enforce the terms of this Settlement Agreement, Held shall be entitled to his reasonable attorneys' fees and costs pursuant to CCP § 1021.5.

8. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

9. 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 Easter Unlimited 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.

10. 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 Easter Unlimited:

M. Elizabeth McDaniel
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109

To Held:

Proposition 65 Coordinator
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.

11. 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.

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

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

13. MODIFICATION

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

14. 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: 05/28/09

Date: _____

By: *Anthony E. Held*
ANTHONY E. HELD, Ph.D., P.E.

By: _____
EASTER UNLIMITED, INC.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Date: _____
HIRST & CHANLER LLP

Date: _____
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

By: _____
Christopher M. Martin
Attorneys for
ANTHONY E. HELD, Ph.D., P.E.

By: _____
Michelle J. Hirth
Attorneys for
EASTER UNLIMITED, INC.

14. 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: _____

Date: _____

By: _____
ANTHONY E. HELD, Ph.D., P.E.

By: _____
EASTER UNLIMITED, INC.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Date: 5/23/09
HIRST & CHANLER LLP

Date: _____
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

By: 
Christopher M. Martin
Attorneys for
ANTHONY E. HELD, Ph.D., P.E.

By: _____
Michelle J. Hirth
Attorneys for
EASTER UNLIMITED, INC.

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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.

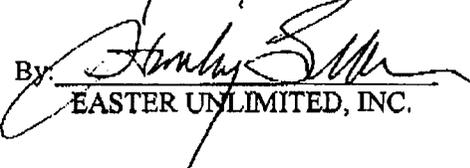
AGREED TO:

Date: _____

By: _____
ANTHONY E. HELD, Ph.D., P.E.

AGREED TO:

Date: May 29, 2009

By: 
EASTER UNLIMITED, INC.

APPROVED AS TO FORM:

Date: _____
HIRST & CHANLER LLP

By: _____
Christopher M. Martin
Attorneys for
ANTHONY E. HELD, Ph.D., P.E.

APPROVED AS TO FORM:

Date: May 29, 2009
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

By: 
Michelle J. Hirth
Attorneys for
EASTER UNLIMITED, INC.