

SETTLEMENT AGREEMENT
BETWEEN
CONSUMER ADVOCACY GROUP, INC., AMSCAN, INC.
AND
PARTY CITY CORPORATION

Consumer Advocacy Group, Inc., on behalf of itself and in the public interest pursuant to Health and Safety Code section 25249.7(d) ("CAG" or "Plaintiff"), and Amscan, Inc. and Party City Corporation ("Defendants") (collectively, the "Parties") enter into this agreement ("Settlement Agreement") to settle Plaintiff's allegations that Defendants violated Proposition 65 for the purpose of avoiding prolonged and costly litigation. The effective date of this agreement shall be the date upon which it is fully executed by all Parties hereto (the "Effective Date").

1.0 Introduction

1.1 CAG is a California-based non-profit 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 Defendants sold a 20" Plastic Holiday Wreath in California (No. 248474) (referred to hereafter as the "Covered Products").

1.3 CAG alleges that the Covered Product contains Lead and Lead Compounds and Defendants did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code* § 25249.5, *et seq.* (“Proposition 65”)). On February 27, 1987, the Governor of California added lead to the list of chemicals known to the State to cause reproductive toxicity, developmental, female, male, and on October 1, 1992, the Governor added lead and lead compounds to the list of chemicals known to the State to cause cancer. Both additions took place more than twenty (20) months before CAG served this Notice. Lead and lead compound are referred to hereafter as the “Listed Chemicals.”

1.4 On or about November 30, 2009, CAG served Defendants and certain relevant public enforcement agencies with a document 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 Defendants violated Proposition 65 by failing to warn consumers in California that use of the Covered Product exposes persons to the Listed Chemicals.

1.5 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties concerning the Covered Product’s compliance with Proposition 65 (the “Dispute”).

1.6 By execution of this Settlement Agreement, the Defendants 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 Defendants 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 Defendants, their officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Defendants may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

This Agreement is a full, final, and binding resolution between Plaintiff, acting on behalf of itself and in the interest of the general public, and Defendants, their owners, subsidiaries, affiliates, sister and related companies, employees, shareholders, directors, insurers, attorneys, successors, and assigns of any of them ("Releasees"), and all entities to whom they directly or indirectly distribute or sell the Covered Product, including but

not limited to distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Downstream Releasees"), of any violation of Proposition 65 or any statutory or common law claim that has been or could have been asserted against the Releasees and Downstream Releasees individually or in the public interest regarding the failure to warn about exposure to the Listed Chemicals arising in connection with Covered Products manufactured and/or shipped prior to the Effective Date even if sold by Downstream Releasees after the Effective Date. Defendants' compliance with this Agreement shall constitute compliance with Proposition 65 with respect to the Listed Chemicals in the Covered Products for both Releasees and Downstream Releasees for Covered Products distributed and/or sold by Defendants after the Effective Date.

Plaintiff on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the general public, hereby waives with respect to the Covered Product 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 Releasees and Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in the public interest, as such claims relate to Releasees' and Downstream Releasees' alleged failure to warn about exposures to the Listed Chemicals contained in the Covered Products.

Plaintiff also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees 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 any nature, character or kind, known or unknown, suspected or unsuspected, against Releasees and Downstream Releasees arising under Proposition 65, as such claims relate to Releasees' alleged failure to warn about exposures to or identification of any chemicals listed under Proposition 65 contained in the Covered Product or any other holiday wreath sold by Releasees through the Effective Date of this Agreement. Plaintiff acknowledges that he is familiar with Section 1542 of 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.

Plaintiff, in his individual capacity only and *not* in his representative capacity, and on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees 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 Civil Code § 1542 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.

3.0 Defendant's Duties

3.1 Defendants represent that they have discontinued selling the Covered Products in California. Defendants agree, promise, and represent, however, that should they sell Covered Products again in California after the execution of this Settlement Agreement, they will only sell Covered Products that contain no more than 90 ppm of Lead.

4.0 Payments

5.1 Defendants shall pay Yeroushalmi & Associates a collective total of \$18,000.00 to resolve any of Plaintiff's claims for investigative costs, and any associated claims for Plaintiff's attorneys' fees and costs incurred as a result of investigating and negotiating this Settlement Agreement in the public interest (the "Settlement Payment"). Defendants shall pay Yeroushalmi & Associates the full amount of \$18,000.00 within fifteen (15) days of the full execution of this Settlement Agreement. The Settlement Payment may be made by either one check on behalf of both Defendants, or by two separate checks one from each Defendant, provided the total amount of the Settlement Payment of \$18,000 is delivered to Plaintiff as set forth herein.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG and each of the Defendants represent that their signatories to this Settlement Agreement have full authority to enter into this Settlement Agreement on their behalf and to legally bind them hereto.

6.0 Attorney General Review

6.1 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 (5) days of the Parties' execution of this Settlement Agreement.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Entire Agreement

8.1 This Settlement Agreement contains 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.

9.0 Modification of Settlement Agreement

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

10.0 Application of Settlement Agreement

10.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of CAG and the Releasees and Downstream Releasees identified in Section 2 above.

11.0 Enforcement of Settlement Agreement

11.1 Any party may file suit before the Superior Court of the County of Los Angeles or San Francisco to enforce the terms and conditions contained in this Settlement Agreement consistent with the terms and conditions set forth in paragraphs 11.2 and 11.3 below. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement unless the unsuccessful party acted with substantial justification. For purposes of this Settlement Agreement, the term "substantial justification" shall carry the same meaning as used in the Civil Discovery Act, Code of Civil Procedure § 2016.010 *et seq.*

11.2 No action to enforce this Settlement Agreement may be served or filed against Defendants by CAG, unless the party seeking enforcement or alleging a violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least 90 days before serving or filing any action and the entity receiving the notice fails to comply with the requirements set forth in Section 11.3 below. Any notice to Defendants must contain (a) the name of the product, (b) specific dates when the product was sold in California without a Proposition 65 compliant warning, (c) the store or other place at which the product was available for sale to consumers, and (d) any other evidence or other support for the allegations in the notice.

11.3 Within 30 days of receiving the notice described in Section 11.2, Defendants shall either (1) withdraw the product for sale to the public in California, (2) provide a Proposition 65 compliant warning for the product, or (3) refute the information provided under Section 11.2. Should the parties be unable to resolve the dispute, any party may seek relief under Section 11.1.

12.0 Notification Requirements

12.1 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
9100 Wilshire Boulevard, Suite 610 E
Beverly Hills, CA 90212
Fax: 310.623.1930

For Amscan:

General Counsel
Amscan Holdings, Inc.
80 Grasslands Road
Elmsford, NY 10523

For Party City Corporation:

General Counsel
Party City Corporation
25 Green Pond Road
Rockaway, NJ 07866

With Copy to:

J. Robert Maxwell
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Fl
San Francisco, CA 94104
Fax: 415.956.6457

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

12. SEVERABILITY

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

13. **GOVERNING LAW**

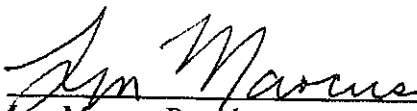
The terms of this Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemicals and/or the Covered Product,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

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

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


CONSUMER ADVOCACY GROUP, INC.

Dated: 3/2/11

By: 
Lyn Marcus, President

PARTY CITY CORPORATION

Dated: 3/9/11

By: 
Name: JOSEPH A. ZEFF
Title: VP, GC & SEC

AMSCAN, INC.

Dated: March 9, 2011

By: 

Name: Erin Heller

Title: Asst. General Counsel

As to form only:

Dated: March 3/11

By: 

Reuben Yeroushalmi

Attorneys for

Consumer Advocacy Group, Inc.

Dated: 3/9/11

By: 

J. Robert Maxwell

Attorneys for

Party City Corporation and

Amscan, Inc.