

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Russell Brimer and Alvin & Company, Inc.

This Settlement Agreement is entered into by and between Russell Brimer (hereinafter “Brimer”) and Alvin & Company, Inc., (hereinafter “Alvin & Co.”), with Brimer and Alvin & Co. collectively referred to as the “Parties.” Brimer 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. Alvin & Co. 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 §§ 25249.5 *et seq.* (“Proposition 65”).

1.2 General Allegations

Brimer alleges that Alvin & Co. has manufactured, distributed and/or sold in the State of California flexible curve drawing products containing lead without the requisite health hazard warnings allegedly required by Proposition 65. Lead is listed as a reproductive and developmental toxicant pursuant to Proposition 65. In addition, di(2-ethylhexyl)phthalate (“DEHP”) and other phthalates such as butyl benzyl phthalate (“BBP”) and di-n-butyl phthalate (“DBP”) are listed as reproductive toxicants under Proposition 65. Lead and DEHP, BBP, and DBP shall be collectively referred to herein as the “Listed Chemicals.”

1.3 Product Description

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

1. Flexible curve drawing products, including, but not limited to, the product identified as “1043 Truflex” curves, manufactured, imported, distributed and/or sold in

California by Alvin & Co., which contain one or more of the Listed Chemicals (hereinafter referred to as the “Products”), and

2. Vinyl cutting mats, erasers, measuring tapes with grips, vinyl or vinyl trimmed pencil pouches and boardcover vinyl rolls, manufactured, imported, distributed and/or sold in California by Alvin & Co., which contain one or more of the Listed Chemicals (hereinafter referred to as the “Additional Products”).

1.4 Notice of Violation

On or about February 12, 2010, Brimer served Alvin & Co. and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided Alvin & Co. and such public enforcers with notice that alleged that Alvin & Co. was in violation of California Health & Safety Code § 25249.6 for failing to warn consumers and customers that the Products exposed users in California to lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

Alvin & Co. denies the material factual and legal allegations contained in Brimer’s Notice and maintains that all products that it has sold and distributed in California, including the Products and Additional Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Alvin & Co. 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 Alvin & Co. of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Alvin & Co. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties of Alvin & Co. under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is fully executed by the Parties.

2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION

2.1 Reformulation Standards and Commitment

As of the Effective Date, Alvin & Co. shall only distribute or sell in California, or cause to be distributed for sale in California, Products and Additional Products that are Lead Free and Phthalate Free, as further defined below, or which contain the warnings required pursuant to Section 2.2 below. For purposes of this Settlement Agreement, “Lead Free” shall mean Products or Additional Products containing components that may be handled, touched or mouthed by a consumer, and which components yield less than 300 parts per million (“ppm”) lead when analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance. As of August 31, 2011, however, the 300 ppm limit shall be reduced to 100 ppm; all other aspects of the Reformulation Commitment shall remain unchanged. Additionally, for purposes of this Settlement Agreement, “Phthalate Free” shall mean Products or Additional Products containing less than or equal to 1,000 parts per million (“ppm”) of each of DEHP, BBP, and DBP, when analyzed pursuant to any testing methodology selected by Alvin & Co. that is acceptable to state or federal government agencies in determining compliance with phthalate standards.

Alvin & Co. hereby commits that 100% of the Products that it distributes to or sells in California after the Effective Date shall be both Lead Free and Phthalate Free. In addition, as an alternative to relying on the product warnings specified in section 2.2 below on an open-ended

basis, Alvin & Co. hereby commits to use commercially reasonable efforts to import Additional Products that are both Lead Free and Phthalate Free.

2.2 Product Warnings

Except as provided in Section 2.5 below, as of the Effective Date, Alvin & Co. shall not distribute, sell, or offer for sale in California, Additional Products containing the Listed Chemicals unless such Products are shipped with the clear and reasonable warnings set out in Section 2.3 and 2.4. Any warning issued for Additional Products pursuant to Section 2.3 or 2.4, below, shall be prominently placed with such conspicuousness as compared with other words, statements, designs or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or, for Additional Products shipped directly to an individual in California, before use.

2.3 Warnings For Retail Sales

Product Labeling. Alvin & Co. may perform its warning obligation by affixing a warning to the packaging of, or, if no packaging exists, directly on, each Additional Product sold in retail outlets in California that states:

WARNING AS REQUIRED BY THE STATE OF CALIFORNIA: This product contains lead and one or more phthalates, chemicals known to the State of California to cause birth defects and other reproductive harm.¹

¹ The words “lead and” may be deleted from the above and from any of the warning statements that follow below for Additional Products where Alvin & Co. has obtained information indicating that such Additional Products contain lead at levels below the Lead Free level defined in Section 2.1 above. Conversely, the words “and phthalates” may be deleted from the above and from any of the warning statements that follow below for Additional Products where Alvin & Co. has obtained information indicating that such Additional Products contain phthalates at levels below the Phthalate Free level defined in Section 2.1 above.

2.4 Warnings For Mail Order Catalog and Internet Sales

Alvin & Co. shall satisfy its warning obligations for Additional Products sold via mail order catalog or the Internet to California residents by providing a warning: (i) in the mail order catalog; or (ii) on its website. Warnings given in the mail order catalog or on its website shall identify the specific Additional Product to which the warning applies as further specified in subsections (a) and (b) below.

(a) Mail Order Catalog Warning. Any warning provided in a mail order catalog must be in the same type size or larger than the Additional Product description text within the catalog. The following warning shall be provided on the same page and in the same location as each display of the Additional Product:

WARNING AS REQUIRED BY THE STATE OF CALIFORNIA: This product contains lead and one or more phthalates, chemicals known to the State of California to cause birth defects and other reproductive harm.

Where it is impracticable to provide the warning on the same page and in the same location as the display of the Additional Product, Alvin & Co. may utilize a designated symbol (▲) to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front cover of the catalog and on the same page as any order form for the Additional Product(s):

WARNING AS REQUIRED BY THE STATE OF CALIFORNIA: Certain products identified with this symbol ▲ and offered for sale in this catalog contain lead and/or one or more phthalates, chemicals known to the State of California to cause birth defects and other reproductive harm.

The designated symbol must appear on the same page and in close proximity to the display or description of the Additional Product on such page. On each page where the

designated symbol appears, Alvin & Co. must provide a reference directing the consumer to the warning language and definition of the designated symbol.

If Alvin & Co. elects to sell one or more Additional Products to consumers via mail order catalog after the Effective Date, then the warnings must be included in all catalogs containing the Additional Products which are printed for distribution in California on or after the Effective Date.

(b) **Internet Website Warning.** A warning may be given in conjunction with the sale of the Additional Product by Alvin & Co. to a California consumer via the Internet, provided it appears either: (a) on the same web page on which the Additional Product is displayed; (b) on the same web page as the order form for the Additional Product; (c) on the same page as the price for any Additional Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Additional Product for which it is given in the same type size or larger than the product description text:

WARNING AS REQUIRED BY THE STATE OF CALIFORNIA: This product contains lead and one or more phthalates, chemicals known to the State of California to cause birth defects and other reproductive harm.

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Additional Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING AS REQUIRED BY THE STATE OF CALIFORNIA: Products identified on this page with the following symbol ▲ contain lead and/or one or more phthalates, chemicals known to the State of California to cause birth defects and other reproductive harm.

2.5 Exceptions To Warning Requirements

The warning requirements set forth in Sections 2.2 through 2.4 shall not apply to:

- (i) Any Products shipped by Alvin & Co. to its California customers before the Effective Date;
- (ii) Any Additional Products imported by Alvin & Co. before the Effective Date, or
- (iii) Products or Additional Products which are Lead Free and Phthalate Free (as defined in Section 2.1).

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

3.1 Initial Civil Penalty

In settlement of all the claims referred to in this Settlement Agreement, Alvin & Co. shall pay an initial civil penalty of \$1,000.00. Said initial civil penalty shall 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 Russell Brimer, as provided by California Health & Safety Code § 25249.12(d). Alvin shall issue two separate checks for the penalty payment: (a) one check made payable to "The Chanler Group in Trust For OEHHA" in the amount of \$750.00, representing 75% of the total penalty; and (b) one check to "The Chanler Group in Trust for Russell Brimer" in the amount of \$250.00, 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) Russell Brimer, whose information shall be provided five (5) calendar days before the payment is due.

Payment shall be delivered to Brimer's counsel on or before July 15, 2010, at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

3.2 Final Civil Penalty

Alvin & Co. shall pay a final civil penalty of \$1,000.00 on or before May 31, 2011.

However, the Final Civil Penalty shall be waived in its entirety if Alvin & Co. certifies in writing, via a signed declaration from an appropriate Alvin & Co. employee, that: (1) as of May 1, 2011, Alvin & Co. has sold or shipped for sale in California only Products that yield a result of no greater than one microgram of lead using the NIOSH 9100 wipe test ("wipe test") as directly applied to each component being analyzed, net any lead present on a sample wipe in the same box or batch used; and (2) that Alvin & Co. will continue to sell, ship and offer for sale in California only those Products that meet both the digest test and wipe test for the lead. Such certification must be received by The Chanler Group on or before May 15, 2011.

The final civil penalty shall 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 Russell Brimer, as provided by California Health & Safety Code § 25249.12(d).

Alvin & Co. shall issue two separate checks for the penalty payment: (a) one check made payable to "The Chanler Group in Trust For OEHHA" in the amount of \$750.00, representing 75% of the total penalty; and (b) one check to "The Chanler Group in Trust for Russell Brimer"

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Payment shall be delivered to Brimer's counsel on or before May 31, 2011 at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Brimer and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Alvin & Co. shall reimburse Brimer's counsel for fees and costs, incurred as a result of investigating, bringing this matter to Alvin & Co.'s attention, and negotiating a settlement in the public interest. Alvin & Co. shall pay Brimer and his counsel \$28,500.00 for all attorneys' fees, expert and investigation fees, and related costs. The payment shall be issued in a third separate check made payable to "The Chanler Group" and shall be delivered on or before July 15, 2010, at the following address:

The Chanler Group
Attn: Proposition 65 Controller
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710

Alvin & Co. shall issue a separate 1099 for fees and cost paid in the amount of \$28,500 to The Chanler Group, Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710. The

Chanler Group's tax identification number shall be furnished by Brimer's counsel at least five calendar days before payment is due

5. RELEASE OF ALL CLAIMS

5.1 Release of Alvin & Co. 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 above, Brimer, 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 Alvin & Co. 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 Alvin & Co.'s alleged failure to warn about exposures to or identification of lead contained in the Products.

In addition to the foregoing, Brimer, on behalf of himself, his past and current agents, representatives, attorneys, and successors and/or assignees, and *not* in his representative capacity hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action for the next twelve months and releases all Claims against Alvin & Co. and each of its

Releasees arising prior to that time. This additional release, which Brimer is providing in his non-representative capacity, is limited to those Claims that arise with respect to Proposition 65 and that are related to Alvin & Co.'s products. This additional release does not include Brimer's rights to enforce the terms of this Settlement Agreement in the event Alvin & Co. should fail to comply with them.

The Parties further understand and agree that the above releases shall not extend upstream to any entities that manufactured the Products or Additional Products or any component parts thereof, or any distributors or suppliers who sold the Products or Additional Products or any component parts thereof to Alvin & Co.

5.2 Alvin & Co.'s Release of Brimer

Alvin & Co. waives any and all claims against Brimer, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Brimer 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 or Additional 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 or

Additional Products, then Alvin & Co. shall provide written notice to Brimer 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 or Additional 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:

For Alvin & Co.:

Diane Gale
Alvin & Company, Inc.
1335 Blue Hills Avenue
Bloomfield, Connecticut 06002

With a copy to:

Robert Falk, Esq.
Morrison & Foerster LLP
425 Market Street, 32nd Floor
San Francisco, California 94105

And

For Brimer:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

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)

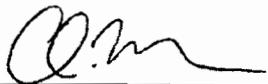
Brimer agrees to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f).

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.

<p>AGREED TO:</p> <p>Date: <u>7-8-10</u></p> <p>By:  Russell Brimer</p>	<p>AGREED TO:</p> <p>Date: _____</p> <p>By: _____ Alvin & Company, Inc.</p>
<p>APPROVED AS TO FORM:</p> <p>Date: <u>7-12-10</u></p> <p>THE CHANLER GROUP</p> <p>By:  Attorneys for Russell Brimer</p>	<p>APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>MORRISON & FOERSTER LLP</p> <p>By: _____ Robert Falk Attorneys for Alvin & Company, Inc.</p>

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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.

<p>AGREED TO:</p> <p>Date: _____</p> <p>By: _____ Russell Brimer</p>	<p>AGREED TO:</p> <p>Date: <u>7/15/10</u></p> <p>By: <u><i>David Gale</i></u>, CFO/VF Alvin & Company, Inc.</p>
<p>APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>THE CHANLER GROUP</p> <p>By: _____ Attorneys for Russell Brimer</p>	<p>APPROVED AS TO FORM:</p> <p>Date: <u>7/12/10</u></p> <p>MORRISON & FOERSTER LLP</p> <p>By: <u><i>Robert H. Falk</i></u> Robert Falk Attorneys for Alvin & Company, Inc.</p>

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