

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Russell Brimer, Tung Yung International (USA), Inc. Tung Yung International, Ltd.

This Settlement Agreement is entered into by and between Russell Brimer (“Brimer”), Tung Yung International (USA), Inc., and Tung Yung International, Ltd. (collectively “Tung Yung”), with Brimer and Tung Yung 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. Tung Yung International (USA), Inc. and Tung Yung International, Ltd. each employ ten or more persons and each is a person in the course of doing business for purposes of California’s 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 Tung Yung has manufactured, distributed, and/or sold in the State of California color coated metal fasteners such as vinyl-coated paper clips containing lead. Lead is listed pursuant to Proposition 65, as a chemical known to the State of California to cause birth defects and other reproductive harm. Lead shall be referred to herein as the “Listed Chemical.”

1.3 Product Description

The products that are covered by this Consent Judgment are defined as follows: Tung Yung’s color coated metal fasteners containing the Listed Chemical and sold by Wal-Mart Stores, Inc. (“Wal-Mart”), Kmart Corporation (“Kmart”), Target Corporation, Michael Stores, Inc., Office Depot Inc., OfficeMax Inc., A.C. Moore Arts & Crafts, Inc., W.W. Grainger, Inc., Big Lots Stores, Inc., and Fred’s Inc. All such items shall be referred to herein as the “Products.”

1.4 Notice of Violation

On or about March 5, 2009, Brimer served Kmart and various public enforcement agencies with a document entitled “60-Day Notice of Violation” that provided Kmart and such public enforcers with notice that as a result of the Kmart’s sales of the Products, purchasers and users in the State of California were being exposed to lead resulting from the reasonably foreseeable uses of the Products, without the individual purchasers and users first having been provided with a “clear and reasonable warning” regarding such toxic exposures.

On or about December 15, 2009, Brimer served Wal-Mart Stores, Inc. (“Wal-Mart”) and various public enforcement agencies with a document entitled “60-Day Notice of Violation” that provided Wal-Mart and such public enforcers with notice that as a result of the Wal-Mart’s sales of the Products, purchasers and users in the State of California were being exposed to lead resulting from the reasonably foreseeable uses of the Products, without the individual purchasers and users first having been provided with a “clear and reasonable warning” regarding such toxic exposures.

On or about March 19, 2010, Brimer served Tung Yung and various public enforcement agencies with a document entitled “Supplemental 60-Day Notice of Violation” (“Supplemental Notice”) that provided Tung Yung and such public enforcers with notice that alleged that Tung Yung 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.

On or about July 1, 2010, Brimer served Tung Yung, Wal-Mart, Kmart, and various public enforcement agencies with a document entitled “Second Supplemental 60-Day Notice of Violation” that provided said served parties with notice that alleged that Tung Yung 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.

To the best of the Parties’ knowledge, no public enforcer has diligently prosecuted the allegations set forth in the 60-Day Notices of Violation, the Supplemental Notice or the Second

Supplemental Notice.

1.5 Complaint

On November 13, 2009, Brimer, acting in the interest of the general public in California, filed a Second Amended Complaint in the Superior Court in and for the City and County of San Francisco, *Russell Brimer v. ACCO Brands Corporation, et al.*, Case No. CGC 09 48578, adding Kmart as a named defendant and alleging violations defendants of Health & Safety Code § 25249.6 based, *inter alia*, on the alleged exposures to lead contained in color coated metal fasteners.

On April 16, 2010, Brimer, acting in the interest of the general public in California, filed a Complaint in the Superior Court in and for the City and County of San Francisco, *Russell Brimer v. Wal-Mart Stores, Inc., et al.*, Case No. CGC 10 498811, alleging violations by Wal-Mart of Health & Safety Code § 25249.6 based, *inter alia*, on the alleged exposures to lead contained in color coated metal fasteners.

As a result of this Settlement Agreement, Brimer shall dismiss Kmart, only, from *Brimer v. ACCO Brands Corporation, et al.*, with prejudice as it relates to the Products and without prejudice as to all other products. Providing, however, that Kmart shall be solely responsible for drafting and filing the agreed-upon documents concerning said dismissal with the Court, within two days after the receipt of all payments required pursuant to Sections 3 and 4 below. Brimer agrees to stay all discovery obligations and extend all pending deadlines applicable to Kmart until the dismissal is filed with the clerk of the Court. Brimer shall dismiss the entire action against Wal-Mart, with prejudice as it relates to the Products and without prejudice as to all other products, within two days after the receipt of all payments required pursuant to Sections 3 and 4 below.

1.6 No Admission

Tung Yung denies the material factual and legal allegations contained in the Supplemental Notice and maintains that all Products that it has sold and distributed in California,

have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Tung Yung 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 Tung Yung of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Tung Yung. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties of Tung Yung under this Settlement Agreement.

1.7 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean September 1, 2010.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Commitment

Commencing on the Effective Date, Tung Yung shall ship, sell or offer to be shipped for sale in California only those Products that are “Lead Free.” For purposes of this Settlement Agreement, Lead Free Products shall mean Products containing components that may be handled, touched or mouthed by a consumer, which components yield less than or equal to 90 parts per million of lead when analyzed pursuant to Environmental Protection Agency (“EPA”) testing methodologies 3050B and/or 6010B, or another method of detection and analysis for lead authorized under Title 27 California Code of Regulations (“CCR”) § 25900 (“Digest Test”). As of August 31, 2011, Lead Free Products shall be amended to mean Products that, in addition to complying with the Digest Test, also yield less than 1.0 microgram of lead when using a wipe test pursuant to NIOSH Test Method 9100 (“Wipe Test”). Thus, on or before August 31, 2011, all Products shipped, sold or offered to be shipped for sale in California by Tung Yung must comply with both the Digest Test and Wipe Test.

3. MONETARY PAYMENTS

3.1 Payments Pursuant to Health & Safety Code § 25249.7(b)

Pursuant to Health & Safety Code §25249.7(b), and in settlement of all claims related to the Products and Listed Chemical referred to herein, Tung Yung shall pay \$30,000 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 amount remitted to Brimer as provided by California Health & Safety Code §25249.12(d).

Tung Yung shall issue two separate checks for each of the penalty payments: (a) one check made payable to The Chanler Group in Trust for the State of California's Office of Environmental Health Hazard Assessment ("The Chanler Group in Trust for OEHHA") in the amount of \$22,500, representing 75% of the total penalty; and (b) one check to The Chanler Group in Trust for Brimer in the amount of \$7,500, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to the Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of \$22,500. The second 1099 shall be issued to Brimer in the amount of \$7,500, whose address and tax identification number shall be furnished upon request. The payments shall be delivered on or before September 1, 2010, to the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

4. REIMBURSEMENT OF FEES AND COSTS

4.1 Attorney Fees and Costs

The parties acknowledge that Brimer 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. Tung Yung 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 Brimer 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. Tung Yung shall reimburse Brimer and his counsel the total of \$120,000 for fees and costs incurred as a result of investigating, bringing this matter to Tung Yung's attention, and litigating and negotiating a settlement in the public interest. Tung Yung shall issue a separate 1099 for fees and costs (EIN: 94-3171522) and shall make the check payable to "The Chanler Group," which check shall be delivered on or before September 1, 2010, to the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

5. RELEASE OF ALL CLAIMS

5.1 Brimer's Release of Tung Yung

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"), that were brought or could have been brought against Tung Yung, or its

parents, subsidiaries or affiliates (including, but not limited to, Tung Yung Stationery Manufactory Limited), and all of their customers, distributors, wholesalers, retailers (including, but not limited to, Wal-Mart, Kmart, Target Corporation, Michael Stores, Inc., Office Depot Inc., OfficeMax Inc., A.C. Moore Arts & Crafts, Inc., W.W. Grainger, Inc., Big Lots Stores, Inc., and Fred's Inc., and their respective subsidiaries and its affiliates), licensors, licensees, or any other person in the course of doing business, and the successors and assigns of any of them, who may use, maintain, manufacture, distribute, advertise, market or sell Products, and the officers, directors, managers, employees, members, shareholders, agents, insurers and representatives of each of them (collectively "Releasees") in this matter. This release is limited to, but is intended to be a full, final, and binding resolution of, those Claims that arise under Proposition 65, as against Tung Yung and the Releasees, as such Claims relate to Tung Yung's alleged failure to warn about exposures to the Listed Chemical contained in the Products. Tung Yung's compliance with this Settlement Agreement shall constitute compliance with Proposition 65 for Tung Yung and the Releasees with respect to the Listed Chemical in such items after the Effective Date.

The Parties intend and agree that this Settlement Agreement shall be given full effect for purposes of precluding claims regarding the Products against Tung Yung or the Releasees under Proposition 65 as covered under this release. If requested in writing by Tung Yung (within twelve months of the Effective Date), Tung Yung may ask Brimer to file a complaint and seek approval of this Settlement Agreement through a court approved consent judgment incorporating the terms of this Settlement Agreement pursuant to California Health and Safety Code § 25249.7, or as may be otherwise allowed by law. If requested, Brimer agrees to reasonably cooperate with Tung Yung and to use best efforts and that of his counsel to support the entry of a consent judgment incorporating the terms of this Settlement Agreement for approval by a superior court in California. Pursuant to California Code of Civil Procedure §§ 1021 and 1021.5, Tung Yung will reimburse Brimer and his counsel for their reasonable fees and costs incurred in filing the

complaint and seeking judicial approval of this Settlement Agreement, in an amount not to exceed \$18,000. No fees under this paragraph will be due and owing to Brimer or his counsel unless a written request is made by Tung Yung to have Brimer file a complaint and thereafter a motion for Court approval of the Parties' Proposition 65 Settlement and a "Stipulation And Proposed Order Re: Consent Judgment" to be drafted by Brimer. Tung Yung will remit payment to The Chanler Group, at the address set forth in Section 4.1 above. Such additional fees shall be paid by Tung Yung within ten days after its receipt of monthly invoices from Brimer for work performed under this paragraph.

5.2 Tung Yung's Release of Brimer

Tung Yung 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 them 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 Tung Yung 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 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 Tung Yung:

Joyce Loo
Tung Yung International Limited
Hong Kong Office
Room 509-511 Kwong Sang Hong Centre
151-153 Hoi Bun Road, Kwun Tong,
Kowloon, Hong Kong
Tel: (852) 2750 1188
Fax:(852) 2796 0577

With a copy to:

Daniel Mount, Esq.
On Lu, Esq.
Mount & Stoelker, P.C.
Riverpark Tower Suite 1650
333 W San Carlos St
San Jose, CA 95110

For Brimer:

Proposition 65 Coordinator
The Chanler Group
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)

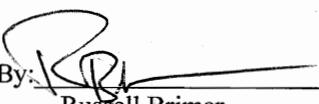
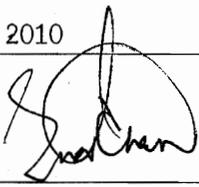
Brimer agrees to comply with the reporting form requirements referenced in Health & Safety Code § 25249.7(f).

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.

AGREED TO:	AGREED TO:
Date: <u>8 23 10</u>	Date: <u>23 AUG 2010</u>
By:  Russell Brimer	By:  Tung Yung International, Ltd.