

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 John Moore and American Thermoplastic Company

This Settlement Agreement is entered into by and between John Moore (“Moore”) and American Thermoplastic Company (“ATC”) with Moore and ATC collectively referred to as the “Parties.” Moore is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals, and to improve human health by reducing or eliminating hazardous substances contained in consumer products. ATC 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.* (“Proposition 65”).

1.2 General Allegations

Moore alleges that ATC has manufactured, distributed, and/or offered for sale coverings for books containing phthalates, including di(2-ethylhexyl)phthalate (the “Listed Chemical”), without the requisite Proposition 65 warnings. The Listed Chemical is listed pursuant to Proposition 65 and is a chemical known to the State of California to cause birth defects and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as follows: coverings for books containing the Listed Chemical manufactured, distributed, and/or offered for sale by ATC such as the *Folio*, *Sacramento State*, *Mocha*, *GRCK-S-MO*. All such coverings for books manufactured, distributed, and/or offered for sale by ATC containing the Listed Chemical are referred to hereinafter as the “Products.” Also, the term “additional products” shall hereinafter mean vinyl ring binders and associated

products.

1.4 Notice of Violation

On or about November 12, 2010, Moore served ATC and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided ATC and public enforcers with notice that ATC was alleged to be in violation of California Health & Safety Code § 25249.6 for failing to warn consumers and other individuals in California that the Products it manufactured, distributed, and/or offered for sale exposed users to the Listed Chemical. To the best of the parties’ knowledge, no public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

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

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean February 22, 2011.

2. INJUNCTIVE RELIEF; REFORMULATION

2.1 Reformulation Commitment

As of the Effective Date, ATC shall only manufacture or cause to be manufactured for sale in California, Products that are “DEHP Free.” For purposes of this Settlement Agreement, “DEHP Free” Products shall mean Products containing no more than 1,000 parts per million of the Listed Chemical as an intended ingredient, when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C (or any test method allowed by any federal or state agency to determine the DEHP content in consumer products) to determine whether the permitted level of the Listed Chemical has been exceeded in its Product. Furthermore, ATC agrees that, as of the Effective Date, it shall only manufacture, or cause to be manufactured for sale in California, additional products that are DEHP Free.

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

In settlement of all the claims referred to in this Settlement Agreement, ATC shall pay \$4,000 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192. Seventy-five percent of the penalty amount is to be remitted to the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”); and the remaining twenty-five percent of the penalty shall be paid to Moore, as provided by California Health & Safety Code §§ 25249.12(c)(1) & (d). ATC 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 \$3,000 and (b) one check to “The Chanler Group in Trust for John Moore” in the amount of \$1,000. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) John Moore, whose information shall be provided five calendar days

before the payment is due.

Payment shall be delivered to Moore's counsel on or before the Effective Date 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 acknowledge that Moore 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. ATC 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 Moore 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. ATC shall pay the total amount of \$20,000 for fees and costs incurred as a result of investigating, bringing this matter to its attention, and negotiating a settlement in the public interest in accordance with the Payment Schedule attached hereto as Attachment I. ATC shall make the check payable to "The Chanler Group." Payment shall be in accordance with the Payment Schedule, to the following address:

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

ATC shall issue a separate 1099 for attorneys' fees and costs paid in the amount of

\$20,000 to The Chanler Group, 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, California 94710 (EIN: 94-3171522).

5. RELEASE OF ALL CLAIMS

5.1 Moore's Release of ATC

In further consideration of the promises and agreements contained herein, and for the payments to be made pursuant to Sections 3 and 4, Moore on behalf of himself and in his representative capacity, 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 ATC and each of its wholesalers, licensors, licensees, auctioneers, retailers, distributors, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, predecessors-in-interest, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees (collectively "Releasees"), that arise under Proposition 65, as such claims relate to ATC's alleged failure to warn about exposures to the Listed Chemical contained in the Products.

The Parties intend and agree that this Settlement Agreement shall be given full effect for purposes of precluding claims regarding the Products against ATC or the Releasees under Proposition 65 as covered under this release. If requested in writing by ATC (within eighteen months of the Effective Date), Moore will file a complaint with the appropriate California court (within 30 days of receipt of ATC's written request) 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 Section 25249.7, or as may be otherwise allowed by law. If requested, Moore agrees to reasonably cooperate with ATC and to use his 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 CCP Sections 1021 and 1021.5, ATC will reimburse Moore 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 \$10,000. No fees under this paragraph will be due and owing to Moore or his counsel unless a written request is made by ATC to have Moore file a complaint and seek a consent judgment. ATC will remit payment to The Chanler Group, at the address set forth in Section 8 below. Such additional fees shall be paid by ATC within ten days after its receipt of monthly invoices from Moore for work performed under this paragraph.

5.2 ATC's Release of Moore

ATC, on behalf of itself and its Releasees, waives any and all claims against Moore, his attorneys, and other representatives for any and all actions taken by Moore, his attorneys, and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against them in this matter, and/or with respect to the Products.

5.3. General Release and Waiver of Civil Code Section 1542

With respect to claims within the foregoing releases, Moore and ATC specifically and expressly waive any right and benefits available to them under the provisions of Section 1542 of the Civil Code of the State of California which provides:

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

It is understood and agreed by Moore and ATC that this Agreement is a full and final general release and shall extinguish all of the their past and present claims, demands and causes of action against each other, whether known or unknown, foreseen or unforeseen, anticipated unanticipated, that arise out of or in any way relate to the subject matter of this Agreement, which claims, demands and causes of action are remised and forever discharged.

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 ATC may provide written notice to Moore 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 notice 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 ATC:

Steve Silberman, President
American Thermoplastic Company
106 Gamma Drive
Pittsburgh, PA 15238

To Moore:

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. A facsimile or optically scanned image of a Party's signature shall be valid, as if original.

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

Moore and his attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

11. MODIFICATION

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

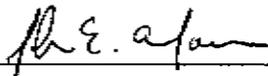
Parties.

12. AUTHORIZATION

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

AGREED TO:

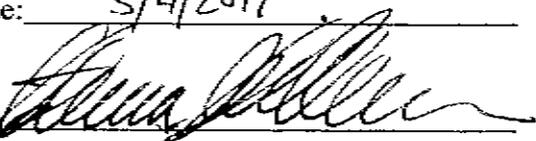
Date: FEBRUARY 24, 2011

By: 

John Moore

AGREED TO:

Date: 3/4/2011

By: 

Steve Silberman, President,
American Thermoplastic Company

ATTACHMENT 1

Payment Schedule

Payments are to be made on or before the dates identified below.

March 1, 2011

(a) \$3,000 to “The Chanler Group in Trust for OEHHA”; and

(b) \$1,000 to “The Chanler Group in Trust for John Moore”.

April 1, 2011

\$4,000 to “The Chanler Group

May 1, 2011

\$4,000 to “The Chanler Group

June 1, 2011

\$4,000 to “The Chanler Group

July 1, 2011

\$4,000 to “The Chanler Group

August 1, 2011

\$4,000 to “The Chanler Group