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Attorneys for Defendant
SHALOM INTERNATIONAL CORP.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, PH.D., P.E.,
Plaintiff,
v.
SHALOM INTERNATIONAL CORP., and
DOES 1-150, inclusive,
Defendants.

) Case No. RG11585394
)
) **[PROPOSED] CONSENT JUDGMENT**
) **AS TO SHALOM INTERNATIONAL**
) **CORP.**
)
) Dept:
) Judge:
) Date: None set
) Complaint Filed: July 14, 2011

1 **1. INTRODUCTION**

2 **1.1 Anthony E. Held Ph.D., P.E. and Shalom International Corp.**

3 This Consent Judgment is entered into by and between plaintiff Anthony E. Held, Ph.D.,
4 P.E. (“Dr. Held” or “Plaintiff”) and defendant Shalom International Corp. (“Shalom” or
5 “Defendant”), with Dr. Held and Shalom collectively referred to as the “parties.”

6 **1.2 Dr. Held**

7 Dr. Held is an individual residing in the State of California who seeks to promote awareness
8 of exposure to toxic chemicals and to improve human health by reducing or eliminating hazardous
9 substances contained in consumer and commercial products.

10 **1.3 Shalom International Corp.**

11 Shalom employs ten or more persons and is a person in the course of doing business for
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
13 Safety Code § 25249.6, *et seq.* (“Proposition 65”).

14 **1.4 General Allegations**

15 Plaintiff has alleged that Shalom has manufactured, imported, distributed and/or sold tote
16 bags containing di(2-ethylhexyl)phthalate (“DEHP”), without the requisite Proposition 65 warnings.
17 DEHP is on the Proposition 65 list as known to cause birth defects and other reproductive harm.

18 **1.5 Product Description**

19 The products that are covered by this Consent Judgment are defined as follows: tote bags
20 containing DEHP including, but not limited to, *My Bag Colorifics, Style #SW10011 (#0 20748*
21 *10011 4)* manufactured, imported, distributed and/or sold by, or on behalf of, Shalom. All such tote
22 bags are referred to hereinafter as the “Products.”

23 **1.6 Notice of Violation**

24 On March 31, 2011, Dr. Held served Shalom and various public enforcement agencies, with
25 a document entitled “60-Day Notice of Violation” (the “Notice”) that provided Shalom and public
26 enforcers with notice of alleged violations of California Health & Safety Code § 25249.6 for failing
27
28

1 to warn consumers that the Products sold by Shalom, exposed users in California to DEHP. To the
2 best of the parties' knowledge, no public enforcer has prosecuted the allegations set forth in the
3 Notice.

4
5 **1.7 Complaint**

6 On July 14, 2011, Dr. Held filed a complaint in the Superior Court in and for the County of
7 Alameda against Shalom International Corp., and Does 1 through 150, *Held v. Shalom, et al.*, Case
8 No. RG11585394 (the "Action"), alleging violations of California Health & Safety Code § 25249.6,
9 based on the alleged exposures to DEHP contained in certain tote bags sold by Shalom.

10 **1.8 No Admission**

11 Shalom denies the material, factual and legal allegations contained in Dr. Held's Notice and
12 Complaint and maintains that all products that it has sold, manufactured, imported and/or
13 distributed in California, including the Products, have been and are in compliance with all laws.
14 Nothing in this Consent Judgment shall be construed as an admission by Shalom of any fact,
15 finding, issue of law, or violation of law, nor shall compliance with this Consent Judgment
16 constitute or be construed as an admission by Shalom of any fact, finding, conclusion, issue of law,
17 or violation of law. However, this section shall not diminish or otherwise affect Shalom's
18 obligations, responsibilities, and duties under this Consent Judgment.

19 **1.9 Consent to Jurisdiction**

20 For purposes of this Consent Judgment only, the parties stipulate that this Court has
21 jurisdiction over Shalom as to the allegations contained in the Complaint, that venue is proper in the
22 County of Alameda and that this Court has jurisdiction to enter and enforce the provisions of this
23 Consent Judgment.

24 **1.10 Effective Date**

25 For purposes of this Consent Judgment, the term "Effective Date" shall mean October 1,
26 2011.

1 **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

2 **2.1 Reformulation Standards**

3 Reformulated Products are defined as those Products containing DEHP in concentrations
4 less than 0.1 percent (1,000 parts per million) in each accessible component when analyzed
5 pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any
6 other methodology utilized by federal or state agencies for the purpose of determining the DEHP
7 content in a solid substance.

8 **2.2 Product Warnings**

9 Commencing on the Effective Date, Shalom shall, for all Products other than Reformulated
10 Products, provide clear and reasonable warnings as set forth in section 2.2 (a) and (b).). However,
11 the parties hereby acknowledge and agree that Shalom has already implemented a labeling program
12 that uses the following language:

13 **WARNING:** This product contains chemicals known to the
14 State of California to cause birth defects or other
15 reproductive harm.

16 Therefore, the parties agree that Shalom can continue to use the warning language above until
17 December 31, 2011, at which time Shalom shall use the specific warning language as set forth in
18 Section 2.2(a) and (b) below. Each warning shall be prominently placed with such conspicuousness
19 as compared with other words, statements, designs, or devices as to render it likely to be read and
20 understood by an ordinary individual under customary conditions before purchase or use. Each
21 warning shall be provided in a manner such that the consumer or user understands to which specific
22 Product the warning applies, so as to minimize the risk of consumer confusion.

22 **(a) Retail Store Sales.**

23 **(i) Product Labeling.** Shalom shall affix a warning to the packaging,
24 labeling, or directly on each Product sold in retail outlets in California by Shalom or any person
25 selling the Products, that states:

26 **WARNING:** This product contains chemicals, including
27 DEHP, known to the State of California to
28 cause birth defects and other reproductive harm.

1 reference the applicable warning and shall define the term “designated symbol” with the following
2 language on the inside of the front cover of the catalog or on the same page as any order form for
3 the Product(s):

4 **WARNING:** Certain products identified with this symbol
5 ▼ and offered for sale in this catalog contain
6 chemicals, including DEHP, known to the
7 State of California to cause birth defects and
8 other reproductive harm.

9 The designated symbol must appear on the same page and in close proximity to the display
10 and/or description of the Product. On each page where the designated symbol appears, Shalom
11 must provide a header or footer directing the consumer to the warning language and definition of
12 the designated symbol.

13 (ii) **Internet Website Warning.** A warning shall be given in conjunction
14 with the sale of the Products via the internet, which warning shall appear either: (a) on the same
15 web page on which a Product is displayed; (b) on the same web page as the order form for a
16 Product; (c) on the same page as the price for any Product; or (d) on one or more web pages
17 displayed to a purchaser during the checkout process. The following warning statement shall be
18 used and shall appear in any of the above instances adjacent to or immediately following the
19 display, description, or price of the Product for which it is given in the same type size or larger than
20 the Product description text:

21 **WARNING:** This product contains chemicals, including
22 DEHP, known to the State of California to
23 cause birth defects and other reproductive harm.

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

27 **WARNING:** Products identified on this page with the
28 following symbol ▼ contain chemicals,
 including DEHP, known to the State of
 California to cause birth defects and other
 reproductive harm.

1 **3. PAYMENT OF PENALTIES**

2 **3.1 Initial Civil Penalty**

3 Shalom shall pay an initial civil penalty of One Thousand Five Hundred Dollars (\$1,500) to
4 be apportioned in accordance with California Health & Safety Code § 25249.12(c) & (d), with 75%
5 of these funds remitted to the State of California’s Office of Environmental Health Hazard
6 Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Anthony E. Held, Ph.D.,
7 P.E.. Shalom shall issue two separate checks for the penalty payment: (a) one check made payable
8 to “The Chanler Group in Trust For OEHHA” in an amount representing 75% of the total penalty;
9 and (b) one check to “The Chanler Group in Trust for Anthony E. Held, Ph.D., P.E.” in an amount
10 representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments:
11 (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Anthony E. Held,
12 Ph.D., P.E., whose information shall be provided five calendar days before the payment is due.

13 Payment shall be delivered to Dr. Held’s counsel on or before October 1, 2011, at the
14 following address:

15 The Chanler Group
16 Attn: Proposition 65 Controller
17 2560 Ninth Street
18 Parker Plaza, Suite 214
19 Berkeley, CA 94710

20 **3.2 Final Civil Penalty**

21 Shalom shall pay a second and final civil penalty of One Thousand Five Hundred Dollars
22 (\$1,500) on April 15, 2012. As incentive for Shalom to reformulate its Products, however, the final
23 civil penalty shall be waived in its entirety if an Officer of Shalom certifies in writing that it, as of
24 April 1, 2012, has sold, shipped and offered for sale in California only Reformulated Products and
25 that it will continue to sell, ship and offer for sale in California only Reformulated Products. Such
26 certification must be received by The Chanler Group on or before April 15, 2012. The final civil
27 penalty payment shall be apportioned in accordance with California Health & Safety Code §
28 25249.12(c) & (d), with 75% of these funds remitted to OEHHA and the remaining 25% of the
penalty remitted to Anthony E. Held, Ph.D., P.E. Shalom shall issue two separate checks for the
final civil penalty payment: (a) one check made payable to “The Chanler Group in Trust For

1 OEHHA” in an amount representing 75% of the total penalty; and (b) one check to “The Chanler
2 Group in Trust for Anthony E. Held, Ph.D., P.E.” in an amount representing 25% of the total penalty.
3 Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010,
4 Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Anthony E. Held, Ph.D., P.E., whose
5 information shall be provided five calendar days before the payment is due (if different than the
6 information already provided to Shalom under Section 3.1 above).

7 Payment shall be delivered to Dr. Held’s counsel at the following address:

8 The Chanler Group
9 Attn: Proposition 65 Controller
10 2560 Ninth Street
11 Parker Plaza, Suite 214
12 Berkeley, CA 94710

13 **4. REIMBURSEMENT OF ATTORNEY’S FEES AND COSTS**

14 The parties reached an accord on the compensation due to Dr. Held and his counsel under general
15 contract principles and the private attorney general doctrine codified at California Code of Civil
16 Procedure (CCP) §1021.5. Shalom shall reimburse Dr. Held and his counsel Twenty One Thousand
17 Dollars (\$21,000) for fees and costs incurred as a result of investigating, bringing this matter to its
18 attention, and negotiating a settlement in the public interest. This figure includes Dr. Held’s future
19 fees and costs including attorney’s fees to be incurred in seeking judicial approval of this Consent
20 Judgment as well as any other legal work performed after the execution of this Consent Judgment
21 incurred in an effort to obtain finality of the case. The check for reimbursement of fees and costs
22 shall be made payable to “The Chanler Group” and shall be delivered on or before October 1, 2011,
23 to the following address:

24 The Chanler Group
25 Attn: Proposition 65 Controller
26 2560 Ninth Street
27 Parker Plaza, Suite 214
28 Berkeley, CA 94710

A separate 1099 shall be issued to “The Chanler Group” (EIN: 94-3171522) for the amount
of the reimbursement of Plaintiff’s fees and costs.

1 **5. CLAIMS COVERED AND RELEASED**

2 **5.1 Full, Final and Binding Resolution of Proposition 65 Allegations**

3 This Consent Judgment is a full, final and binding resolution between Plaintiff, on behalf
4 of himself and the public, and Defendant, of any violation of Proposition 65 that was or could
5 have been asserted by Plaintiff against Defendant, its parents, subsidiaries, affiliated entities that
6 are under common ownership, (and their respective owners, shareholders, members, officers,
7 directors, attorneys, representatives, and employees), manufacturers, suppliers and each entity to
8 whom Defendant directly or indirectly distributes or sells Products, including but not limited to
9 downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members,
10 licensors, and licensees (“Releasees”), based on their failure to warn about alleged exposures to
11 DEHP contained in the Products that were sold by Defendant.

12 **5.2 Plaintiff’s Public Release of Proposition 65 Claims**

13 In further consideration of the promises and agreements herein contained, Plaintiff on
14 behalf of himself, his past and current agents, representatives, attorneys, successors, and/or
15 assignees, and in the interest of the general public, hereby waives all rights to institute or
16 participate in, directly or indirectly, any form of legal action and releases all claims, including,
17 without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands,
18 obligations, damages, costs, fines, penalties, losses, or expenses -- including, but not limited to,
19 investigation fees, expert fees, and attorneys’ fees -- limited to and arising under Proposition 65
20 with respect to DEHP in the Products sold by Defendant (collectively “claims”), against
21 Defendant and Releasees.

22 **5.3 Dr. Held’s Individual Release of Claims**

23 Dr. Held also, in his individual capacity only and not in his representative capacity,
24 provides this release herein which shall be effective as a full and final accord and satisfaction, as a
25 bar to all actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses,
26 claims, liabilities and demands of plaintiff of any nature, character or kind, whether known or
27 unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to
28

1 DEHP in the Products manufactured, distributed or sold by Defendant Dr. Held also, in his
2 individual capacity only and *not* in his representative capacity, provides a general release herein
3 which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of
4 action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and
5 demands of Dr. Held of any nature, character or kind, known or unknown, suspected or
6 unsuspected, arising out of the subject matter of the Complaint. Dr. Held acknowledges that he is
7 familiar with Section 1542 of the California Civil Code, which provides as follows:

8 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
9 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
10 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
11 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
12 SETTLEMENT WITH THE DEBTOR.

11 Dr. Held, in his individual capacity only and *not* in his representative capacity, expressly
12 waives and relinquishes any and all rights and benefits which he may have under, or which may be
13 conferred on him by the provisions of Section 1542 of the California Civil Code as well as under
14 any other state or federal statute or common law principle of similar effect, to the fullest extent that
15 he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of
16 such intention, the release hereby given shall be and remain in effect as a full and complete release
17 notwithstanding the discovery or existence of any such additional or different claims or facts arising
18 out of the released matters.

19 **5.4 Shalom's Release of Plaintiff**

20 Shalom on behalf of itself, its past and current agents, representatives, attorneys,
21 successors, and/or assignees, hereby waives any and all claims against Plaintiff, his attorneys and
22 other representatives, for any and all actions taken or statements made (or those that could have
23 been taken or made) by Plaintiff and his attorneys and other representatives, whether in the course
24 of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with
25 respect to the Products. Shalom also provides a general release herein which shall be effective as a
26 full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs,
27 expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Dr. Held of any
28 nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject

1 matter of the Action. Shalom acknowledges that it is familiar with Section 1542 of the California
2 Civil Code, which provides as follows:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
4 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
5 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
6 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
7 SETTLEMENT WITH THE DEBTOR.

8 Shalom expressly waives and relinquishes any and all rights and benefits which it may have
9 under, or which may be conferred on it by the provisions of Section 1542 of the California Civil
10 Code as well as under any other state or federal statute or common law principle of similar effect, to
11 the fullest extent that it may lawfully waive such rights or benefits pertaining to the released
12 matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a
13 full and complete release notwithstanding the discovery or existence of any such additional or
14 different claims or facts arising out of the released matters.

15 **6. COURT APPROVAL**

16 This Consent Judgment is not effective until it is approved and entered by the Court and
17 shall be null and void if, for any reason, it is not approved and entered by the Court within one year
18 after it has been fully executed by all parties.

19 **7. SEVERABILITY**

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

23 **8. GOVERNING LAW**

24 The terms of this Consent Judgment shall be governed by the laws of the State of California
25 and apply within the State of California. In the event that Proposition 65 is repealed, preempted or
26 is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this
27 Consent Judgment are rendered inapplicable or no longer require as a result of any such repeal or
28 preemption or rendered inapplicable by reason of law generally as to the Products, then Shalom
shall have no further obligations pursuant to this Consent Judgment with respect to, and to the
extent that, the Products are so affected.

1 **9. NOTICES**

2 Unless specified herein, all correspondence and notices required to be provided pursuant to
3 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class,
4 (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the
5 other party at the following addresses:

6 To Shalom:

7 Shalom International, Corp
8 1050 Amboy Avenue
9 Perth Amboy, New Jersey 08861
 Attention: Ed Baranoff

To Dr. Held:

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

10 With a copy to:

11 Michael S. Hassan, Esq.
12 Wachtel & Masyr, LLP
13 One Dag Hammarskjold Plaza
 885 Second Avenue, 47th Floor
 New York, New York 10017

14 Any party, from time to time, may specify in writing to the other party a change of address
15 to which all notices and other communications shall be sent.

16 **10. COUNTERPARTS; FACSIMILE SIGNATURES**

17 This Consent Judgment may be executed in counterparts and by facsimile or pdf signature,
18 each of which shall be deemed an original, and all of which, when taken together, shall constitute
19 one and the same document. A facsimile or pdf signature shall be as valid as the original.

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

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

23 **12. ADDITIONAL POST EXECUTION ACTIVITIES**

24 Dr. Held and Shalom agree to mutually employ their, and their counsel's, best efforts to
25 support the entry of this agreement as a Consent Judgment and obtain approval of the Consent
26 Judgment by the Court in a timely manner. The parties acknowledge that, pursuant to California
27 Health & Safety Code § 25249.7, a noticed motion is required to obtain judicial approval of this
28 Consent Judgment, which Dr. Held shall draft and file, and Shalom shall join. If any third party

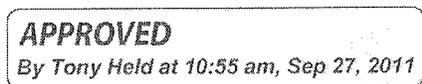
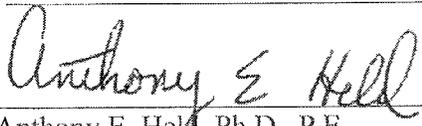
1 objection to the noticed motion is filed, Dr. Held and Shalom shall work together to file a joint reply
2 and appear at any hearing before the Court. This provision is a material component of the Consent
3 Judgment and shall be treated as such in the event of a breach. If the Superior Court does not
4 approve the motion to approve this Consent Judgment, and if the parties choose not to pursue a
5 modified Consent Judgment within 30 days after the Court's denial of the motion to approve, all
6 payments made pursuant to this Consent Judgment will be returned to counsel for Shalom.

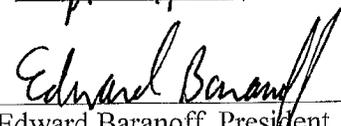
7 **13. MODIFICATION**

8 This Consent Judgment may be modified only: (1) by written agreement of the parties and
9 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
10 of any party and entry of a modified Consent Judgment by the Court.

11 **14. AUTHORIZATION**

12 The undersigned are authorized to execute this Consent Judgment on behalf of their
13 respective parties and have read, understood, and agree to all of the terms and conditions of this
14 Consent Judgment.

17 AGREED TO:
18 
19 Date: _____
20 By: 
21 Anthony E. Held, Ph.D., P.E.

AGREED TO:
Date: Sept. 21, 2011
By: 
Edward Baranoff, President
Shalom International Corp.