

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1. Parties

This Settlement Agreement is entered into by and between Peter Englander (“Englander”) and Dexter-Russell, Inc. (“Dexter-Russell”), with Englander and Dexter-Russell collectively referred to as the “Parties.” Englander 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. Dexter-Russell 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, Health & Safety Code section 25249.6 *et seq.* (“Proposition 65”).

1.2. General Allegations

Englander alleges that Dexter-Russell manufactures, distributes, and/or sells in the State of California cutlery cases causing an exposure to di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 warning. DEHP is listed pursuant to Proposition 65 as 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: cutlery cases containing DEHP that are manufactured, imported, distributed, and/or sold in California by Dexter-Russell, including, but not limited to, *Dexter Traditional Cutlery Case, CC-4, #20208* (hereinafter “Products”).

1.4. Notice of Violation

On or about March 29, 2012, Englander served Dexter-Russell and various public enforcement agencies with a “60-Day Notice of Violation” (“Notice”), alleging that Dexter-Russell was in violation of Proposition 65 for failing to warn its customers and consumers in California that the Products expose users to DEHP. To the best of the Parties’ knowledge, no

public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5. No Admission

This Settlement Agreement resolves claims that are denied and disputed by Dexter-Russell. Dexter-Russell denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products it has manufactured, imported, distributed, and/or sold in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Dexter-Russell of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Dexter-Russell of any fact, finding, conclusion of law, issue of law, or violation of law, such being specifically denied by Dexter-Russell. This section shall not, however, diminish or otherwise affect Dexter-Russell'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 September 28, 2012.

2. INJUNCTIVE RELIEF

2.1. Reformulation

Commencing on the Effective Date and continuing thereafter, except as provided in section 2.2 below, Dexter-Russell shall only manufacture, distribute, ship, sell, or offer to ship for sale in California Products that meet the "Phthalate Standard." A Product that meets the Phthalate Standard contains, in each accessible component:¹ (1) no more than 1,000 parts per million (ppm) of DEHP when analyzed pursuant to EPA testing methodologies 3580A and 8270C, or equivalent methodologies utilized by state or federal agencies for the purpose of determining DEHP content in a solid substance; and (2) no more than 1,000 ppm each of butyl

¹An accessible component is any poly vinyl chloride or other soft plastic, vinyl, or synthetic leather part of a Product that could be touched by a person during reasonably foreseeable use.

benzyl phthalate (“BBP”), di-n-hexyl phthalate (“DnHP”), di-n-butyl phthalate (“DBP”) and diisodecyl phthalate (“DIDP”). DEHP, BBP, DnHP, DBP, and DIDP are together referred to herein as “Listed Phthalates.”

2.2. Warning

For Products Dexter-Russell manufactured or imported before the Effective Date that Dexter-Russell distributes, ships, sells, or offers to ship for sale in California, Dexter-Russell shall provide a clear and reasonable warning consistent with the requirements of California Code of Regulations, title 27, sections 25601 et seq. The warning shall have the following text:

WARNING: This product contains chemicals known to the State of California to cause cancer and/or birth defects and other reproductive harm.

This section shall not apply to Products coming into Dexter’s control on or after the Effective Date. Dexter-Russell shall not provide, nor require or request that any other person or entity provide, a warning for any Products it knows, or should know, does not contain at least one chemical listed pursuant to Proposition 65.

3. MONETARY PAYMENTS

Payments of all penalties by Dexter-Russell under this Agreement shall be apportioned in accordance with Health & Safety Code section 25249.12, subdivisions (c)(1) and (d). In each instance, payments equal to 75% of the civil penalty shall be earmarked for the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”) made payable to “The Chanler Group in Trust for OEHHA,” and the remaining 25% of the penalty monies shall be earmarked for Englander made payable to “The Chanler Group in Trust for Peter Englander.”

Upon payment of each penalty, Dexter-Russell shall issue two 1099 forms, one to the Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) for the civil penalties payable to OEHHA, and a second to Englander, whose address and tax identification number shall be furnished upon request, for the civil penalties payable to Englander.

(a) Initial Civil Penalty

On or before the Effective Date Dexter-Russell shall pay a penalty of \$1,000.

(b) Second Civil Penalty

Dexter-Russell shall pay a second civil penalty of \$3,000 on or before September 28, 2013. The second civil penalty shall be waived in its entirety if an officer or director of Dexter-Russell certifies, in writing, that, as of September 28, 2013, all of the Products that Dexter-Russell distributes, ships, sells, or offers to ship for sale in California comply with the Phthalate Standard. Such certification must be received by The Chanler Group on or before September 28, 2013.

3.1. Reimbursement of Fees and Costs

The Parties reached an accord on the compensation due Englander and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, Dexter-Russell shall pay \$20,000 for all fees and costs incurred investigating, bringing this matter to the attention of Dexter-Russell, and negotiating a settlement in the public interest. Dexter-Russell shall provide its payment in the form of a check payable to “The Chanler Group,” issue a separate 1099 for fees and costs (EIN: 94-3171522), and deliver payment on or before the Effective Date at the Payment Address provided in Section 3.3.

3.2. Payment Address

All payments and tax documentation required by this Section 3 shall be delivered to Englander’s counsel at the following address:

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

4. RELEASES

4.1. Englander's Release of Dexter-Russell

This Settlement Agreement is a full, final, and binding resolution between Englander and Dexter-Russell of any violation of Proposition 65 that was or could have been asserted by Englander on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees against Dexter-Russell, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Dexter-Russell directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Releasees"), based on their failure to warn about alleged exposures to Listed Phthalates contained in Products that were manufactured, imported, distributed, sold, and/or offered for sale up to the Effective Date by Dexter-Russell in California. The penalties, reformulation commitment, and attorneys' fees paid by Dexter-Russell in connection with this Settlement Agreement are intended to resolve all issues concerning any alleged violations of Proposition 65 concerning Listed Phthalates in the Products. Dexter-Russell's compliance with this Settlement Agreement shall be deemed compliance with Proposition 65 with respect to any actual or alleged exposures to Listed Phthalates in the Products.

Englander also, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, 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) (collectively "Claims"), but exclusive of fees and costs on appeal (if any), against Defendant or the Releasees related to the presence of Listed Phthalates in the Products, and further provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all Claims, liabilities, and demands of any nature, character or kind, known or unknown, suspected or unsuspected, as such Claims relate to

the Products sold by Defendant or the Releasees in California. Englander further acknowledges that he is familiar with Civil Code section 1542, which provides as follows:

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.

Englander, 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 that he may have under, or which may be conferred on him by the provisions of Civil Code section 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.

4.2. Dexter-Russell's Release of Englander

Dexter-Russell on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Englander and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Englander and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to Listed Phthalates in the Products. Dexter-Russell further acknowledges that it is familiar with Civil Code section 1542, which provides as follows:

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.

Dexter-Russell, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, expressly waives and relinquishes any and all rights and benefits that it may have under, or which may be conferred on it by the provisions of Civil Code section

1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

5. POST-EXECUTION CONVERSION TO CONSENT JUDGMENT

At any time within twelve months after the execution of this Settlement Agreement, Dexter-Russell may send Englander a written request to draft and file a complaint, incorporating the terms of this Settlement Agreement into a proposed consent judgment, and to seek court approval of the consent judgment pursuant to Health and Safety Code section 25249.7, or as may be otherwise allowed by law. If so requested, in furtherance of obtaining approval of the consent judgment, Englander and Dexter-Russell and their respective counsel agree to mutually employ their best efforts to support the entry of the proposed consent judgment and obtain approval of the consent judgment by the Court in a timely manner. For purposes of this section, best efforts shall include, at a minimum, cooperating on the drafting and filing of any papers in support of the required motion for judicial approval.

Pursuant to Code of Civil Procedure sections 1021 and 1021.5, Dexter-Russell will reimburse Englander and his counsel for their reasonable fees and costs incurred drafting and filing the complaint, converting the Settlement Agreement into a proposed consent judgment, and seeking judicial approval of the consent judgment, in an amount not to exceed \$12,500, exclusive of fees and costs incurred on appeal, if any. Dexter-Russell will remit payment to The Chanler Group, at the Payment Address provided in Section 3.3. Such additional fees shall be paid by Dexter-Russell within fifteen days after its receipt of monthly invoices from Englander's counsel for work performed under this Section.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision is 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.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be sent by: (i) personal delivery; (ii) first-class, registered or certified mail, return receipt requested; or (iii) overnight courier on any party by the other party at the following addresses:

For Dexter-Russell:

Alan Peppel, President
Dexter-Russell, Inc.
44 River Street
Southbridge, MA 01550

For Englander:

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

With copy to:

James Robert Maxwell, Esq.
Rogers Joseph O'Donnell
10th Floor
311 California Street
San Francisco, CA 94104
jrm@rjo.com

Any party may, from time to time, 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 or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. POST-EXECUTION ACTIVITIES

Englander agrees to comply with the reporting form requirements referenced in Health & Safety Code section 25249.7, subdivision (f).

11. MODIFICATION

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

12. AUTHORIZATION

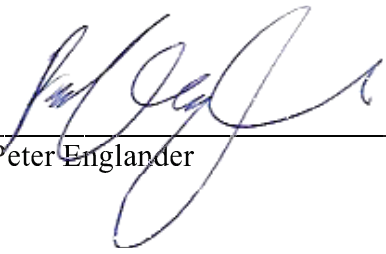
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: September 22, 2012

Date: _____

By:  _____
Peter Englander

By: _____
Alan Peppel, President
Dexter-Russell, Inc.

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.

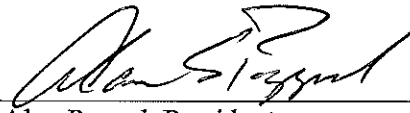
AGREED TO:

AGREED TO:

Date: _____

Date: 9-25-2012

By: _____
Peter Englander

By: 
Alan Peppel, President
Dexter-Russell, Inc.