

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony E. Held, Ph.D., P.E. and Stone Mountain USA, LLC

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (“Held”) on one hand and Stone Mountain USA, LLC (“Stone Mountain”) on the other hand, with Held and Stone Mountain collectively referred to as the “Parties.” Held is an individual residing in 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. Stone Mountain 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

Held alleges that Stone Mountain has manufactured, imported, distributed and/or sold in the State of California vinyl/PVC tote bags containing di(2-ethylhexyl)phthalate (“DEHP”). 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 vinyl/PVC tote bags containing DEHP including, but not limited to, *Shopper Tote, Gold Leopard, Style 3767 (#8 42747 03034 2) and all iterations thereof*, and *Shopper Tote, Red Holiday, Style 3767 (#8 42747 03028 1) and all iterations thereof*, which are manufactured, imported, distributed, sold and/or offered for sale by Stone Mountain in the State of California, hereinafter the “Products.”

1.4 Notice of Violation

On September 21, 2012, Held served Stone Mountain and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided the

recipients with notice that Stone Mountain was in violation of California Health & Safety Code § 25249.6 for failing to warn consumers that their Products exposed users in California to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

Stone Mountain denies the material, factual and legal allegations contained in Held's Notice and maintains that all products that it has sold and distributed 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 Stone Mountain 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 Stone Mountain of any fact, finding, conclusion, issue of law or violation of law. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean May 15, 2013.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

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

2.2 Reformulation Commitment

As of the Effective Date, all Products manufactured, imported, distributed, sold or offered for sale in the State of California by Stone Mountain shall be Products that qualify as Reformulated Products as defined in Section 2.1 above.

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

In settlement of all the claims referred to in this Settlement Agreement, Stone Mountain shall pay a total of \$12,000 in civil penalties in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Held, as follows:

3.1 Initial Civil Penalty

Stone Mountain shall pay an initial civil penalty in the amount of \$4,000 on or before May 15, 2013. Stone Mountain shall issue two separate checks to: (a) “OEHHA” in the amount of \$3,000; and (b) “The Chanler Group in Trust for Anthony E. Held” in the amount of \$1,000. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Final Civil Penalty

Stone Mountain shall pay a final civil penalty of \$8,000 on or before June 15, 2013. The final civil penalty shall be waived in its entirety, however, if, no later than June 1, 2013, an officer of Stone Mountain provides Held with written certification that, as of the date of such certification and continuing into the future, Stone Mountain has met the reformulation standard specified in Section 2 above, such that all Products manufactured, imported, distributed, sold and offered for sale in California by Stone Mountain are Reformulated Products. Held must receive any such certification on or before June 1, 2013. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence. Stone Mountain shall issue two separate checks for its final civil penalty payments to: (a) “OEHHA” in the amount of \$6,000; and (b) “The Chanler Group in Trust for Anthony E. Held” in the amount of \$2,000.

3.3 Payment Procedures

3.3.1. Issuance of Payments. Payments shall be delivered as follows:

- (a) All payments owed to Held, pursuant to Sections 3.1 through 3.2, shall be delivered to the following payment address:

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

- (b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Sections 3.1 through 3.2, shall be delivered directly to OEHHA (Memo line “Prop 65 Penalties”) at the following addresses:

For United States Postal Service Delivery:

Mike Gyrics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyrics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

With a copy of the checks payable to OEHHA mailed to The Chanler Group at the address set forth above in 3.3.1(a), as proof of payment to OEHHA.

3.3.2 Issuance of 1099 Forms. After each penalty payment, Stone Mountain shall issue separate 1099 forms for each payment to Held, whose address and tax identification number shall be furnished upon request after this Settlement Agreement has been fully executed by the Parties, and OEHHA at the addresses listed in Section 3.3.1 above.

4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Held 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. Held 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 Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Stone Mountain shall pay \$25,000 for fees and costs incurred as a result of investigating, bringing this matter to Stone Mountain's attention, and negotiating a settlement in the public interest. Stone Mountain shall issue a separate 1099 for fees and costs (EIN: 94-3171522), shall make the check payable to "The Chanler Group" and shall deliver payment on or before May 15, 2013, to the address listed in Section 3.3.1(a) above.

5. RELEASES

5.1 Held's Release of Stone Mountain

This Settlement Agreement is a full, final and binding resolution between Held and Stone Mountain of any violation of Proposition 65 that was or could have been asserted by Held on behalf of himself his past and current agents, representatives, attorneys, successors and/or assignees, against Stone Mountain, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Stone Mountain 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 DEHP contained in the Products that were manufactured, imported, distributed, sold and/or offered for sale by Stone Mountain in California before the Effective Date.

In further consideration of the promises and agreements herein contained, Held on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all of his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have 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, but exclusive of fees and costs on appeal -- limited to and arising under

Proposition 65 with respect to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Stone Mountain before the Effective Date (collectively “claims”), against Stone Mountain and Releasees.

5.2 Stone Mountain’s Release of Held

Stone Mountain, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Held 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 Held 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 the Products.

6. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement, Stone Mountain may ask Held, in writing, to file a complaint in the public interest, to incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek the court’s 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, Held agrees to reasonably cooperate with Stone Mountain and the Parties agree to use their best efforts, and that of their counsel, to support the entry of a consent judgment by a superior court in California. Pursuant to Code of Civil Procedure sections 1021 and 1021.5, Stone Mountain will reimburse Held and his counsel for their reasonable fees and costs incurred in 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 \$16,000, exclusive of fees and costs that may be incurred on appeal. Stone Mountain will remit payment to The Chanler Group, at the address set forth in section 4 above. Such additional fees shall be paid by Stone Mountain within ten days after its receipt of monthly invoices from Held for work performed under this paragraph.

7. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

8. 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 if any of the provisions of this Settlement Agreement are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, then Stone Mountain shall provide written notice to Held 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. Nothing in this Settlement Agreement shall be interpreted to relieve Stone Mountain from any obligation to comply with any pertinent state or federal toxics control law.

9. NOTICES

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

For Stone Mountain:

Kenneth Orr, President
Stone Mountain USA Corp.
10 West 33rd Street, Suite 728
New York, NY 10001

For Held:

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.

10. COUNTERPARTS; FACSIMILE AND SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

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

12. MODIFICATION

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

13. AUTHORIZATION

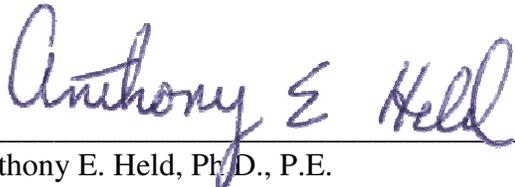
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.

AGREED TO:

AGREED TO:

Date: 05/17/13

Date: _____

By: 
Anthony E. Held, Ph.D., P.E.

By: _____
Kenneth Orr, President
Stone Mountain USA, LLC

For Held:

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

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13. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.

AGREED TO:

AGREED TO:

Date: _____

Date: 5/8/13

By: _____
Anthony E. Held, Ph.D., P.E.

By: 
Kenneth Orr, President
Stone Mountain USA, LLC