

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Peter Englander (“Englander”) and Rapid Care, Inc. (“Rapid Care”), with Englander and Rapid Care each individually referred to as a “Party,” and collectively as the “Parties.” Englander is an individual residing in the California who seeks to promote awareness of exposure to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer and commercial products. Englander alleges that Rapid Care 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 and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Englander alleges that Rapid Care manufactures, sells, or distributes for sale in California, adhesive bandages containing di(2-ethylhexyl)phthalate (“DEHP”) without providing the clear and reasonable warning required by Proposition 65. 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” covered by this Settlement Agreement are adhesive bandages containing DEHP including, but not limited to, those offered in connection with the *75pc First Aid Kit, Item #6010 (#7 81311 06010 4)*, and the *Rapid Care 183 Pieces First Aid Kit, #213552-01 (#8 91191 00066 1)* (collectively, “Products”), that are manufactured, imported, sold or distributed for sale in California by Rapid Care.

1.4 Notices of Violation

On June 15, 2012, Englander served WinCo Holdings, Inc. (“WinCo”) and certain public enforcement agencies with a “60-Day Notice of Violation” (“WinCo Notice”) alleging that WinCo violated Proposition 65 when it failed to warn consumers in California that the Products

expose users to DEHP. Thereafter, on August 16, 2012, Englander served SAS Safety Corp. (“SAS”) and the same requisite public enforcement agencies with a “60-Day Notice of Violation” (“SAS Notice”) alleging that SAS also violated Proposition 65 by failing to warn consumers in California that the Products expose users to DEHP. On December 20, 2012, Englander served Rapid Care and Rapid Care’s customers, S A S and WinCo, with a “Supplemental 60-Day Notice of Violation” (“Supplemental Notice”) which contained the additional allegation that, in addition to SAS and WinCo, Rapid Care also violated Proposition 65 when it failed to warn its customers and consumers in California that the Products expose users to DEHP.

The SAS Notice, WinCo Notice, and Supplemental Notice are referred to collectively hereinafter as the “Notices.” To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce of the violations alleged in any of the Notices.

1.5 No Admission

Rapid Care denies the material, factual, and legal allegations contained in the Notices and maintains that all of the products it has sold or distributed for sale 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 Rapid Care 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 of any fact, finding, conclusion of law, issue of law or violation of law, the same being specifically denied by Rapid Care. This section shall not, however, diminish or otherwise affect Rapid Care’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 July 1, 2013.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulated Products

As of December 1, 2013, Rapid Care shall only import or cause to be imported, manufacture or cause to be manufactured, or purchase for sale in California, “Reformulated Products.” For purposes of this Settlement Agreement, Reformulated Products are Products that contain a maximum of 1,000 parts per million DEHP content by weight when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or equivalent methodologies utilized by federal or state agencies to determine DEHP content in a solid substance.

2.2 Vendor Notification

To the extent is has not already done so, no more than thirty days after the Effective Date, Rapid Care shall provide the DEHP content limits applicable to Reformulated Products to each of its then-current vendors of Products that are reasonably likely to be sold or distributed for sale to consumers in California. Rapid Care shall instruct each such vendor to use its best efforts to provide only Reformulated Products, as defined in Section 2.1, in as expeditious a manner as is practicable. In complying with the obligation imposed by this Section, Rapid Care shall not employ words or devices to encourage or otherwise cause any vendor to delay its provision of Reformulated Products.

3. MONETARY PAYMENTS

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

Except as provided in Section 3.1.2, Rapid Care shall pay \$20,000 in civil penalties. Each civil penalty payment shall be allocated according to Health and Safety Code section 2549.12(c)(1) and (d), with seventy-five percent (75%) of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining twenty-five percent (25%) of the penalty amount remitted to Englander.

3.1.1 Initial Civil Penalty

Within five business days of the Effective Date, Rapid Care shall make an initial civil penalty payment of \$5,000.

3.1.2 Final Civil Penalty

On December 31, 2013, Rapid Care shall pay the remaining portion of the civil penalty, in the amount of \$15,000. This payment of \$15,000 shall be waived in its entirety, however, if, no later than December 1, 2013, an officer of Rapid Care provides Englander's counsel with written certification that, as of such date, one-hundred percent (100%) of the Products Rapid Care sells, distributes for sale, or offers for sale in California are Reformulated Products as defined by Section 2.1. The certification required by this Section is a material term. Englander's counsel must receive the certification, if any, on or before December 1, 2013, and time is of the essence.

3.2 Reimbursement of Englander's Fees and Costs

The Parties reached an accord on the compensation due to Englander and his counsel under the private attorney general doctrine and Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, Rapid Care shall reimburse Englander's counsel \$24,500 for the fees and costs incurred investigating, bringing this matter to the attention of Rapid Care's management, and negotiating a settlement in the public interest, including all attorneys' fees, expert and investigation fees, and related costs, including the fees and costs incurred negotiating, drafting, and implementing the provisions of this Settlement Agreement. The initial installment of this payment in the amount of \$10,000 is due on July 1, 2013. The second installment of this payment in the amount of \$5,000 is due on August 1, 2013. The third installment of this payment in the amount of \$5,000 is due on September 1, 2013. The final installment of this payment in the amount of \$4,500 is due on October 1, 2013.

Rapid Care represents that, as of the Effective Date, it lacks the financial capacity to satisfy all of the monetary obligations provided by this Settlement Agreement, and must do so in installments, as set forth above. The Parties agree, however, that, in the event that Rapid Care

fails to make any payment required by this Settlement Agreement, or any payment is delayed by more than five days, all amounts owed will become due immediately.

3.3 Payment Procedures

3.3.1 Payment Addresses

All payments and tax documentation required by this settlement agreement shall be delivered to the following addresses:

- (a) All payments owed to Englander’s counsel, pursuant to Section 3.2, shall be delivered to the following address:

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

- (b) All payments owed to OEHHA pursuant to Sections 3.1.1 and 3.1.2, shall be delivered directly to OEHHA (Memo line “Prop 65 Penalties”) at the following address:

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

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

3.3.2 Required Tax Documentation

After each penalty payment, Rapid Care agrees to provide Englander’s counsel with a separate 1099 form for each payee. Englander’s counsel will provide the addresses and tax identification numbers for Englander and the Silent Spring Institute after this Settlement Agreement has been fully executed by the Parties. For OEHHA, “Office of Environmental Health Hazard Assessment,” P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486).

4. RELEASE OF ALL CLAIMS

4.1 Englander's Release of Rapid Care

In consideration of the promises and agreements contained herein, Englander, on his own behalf and on behalf of 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 that he may have against Rapid Care and each entity to whom Rapid Care directly or indirectly distributes or sells the Products including, but not limited to, its downstream distributors, wholesalers, customers (including, without limitation, SAS and WinCo), retailers, franchisees, cooperative members and licensees (collectively, "Releasees") arising under Proposition 65 for unwarned exposures to DEHP in Products, distributed, sold or offered for sale by Rapid Care prior to the Effective Date.

Englander, in his individual capacity only, and *not* in a representative capacity, also provides a release to Rapid Care the Releasees which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to DEHP from Products sold by Rapid Care prior to the Effective Date.

4.2 Rapid Care's Release of Englander

Rapid Care waives any and all claims against Englander and his attorneys and other representatives, for any and all actions taken or statements made by Englander and his attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

5. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement, Rapid Care may send Englander a written request to draft and file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek court approval of this settlement in the form of a consent judgment pursuant to Health and Safety Code

section 25249.7(d), or as may be otherwise allowed by law. If requested, Rapid Care and Englander agree to reasonably cooperate and to use their best efforts, and that of their counsel, to obtain approval of their settlement by a superior court in California, and an entry of judgment in accordance with the terms set forth herein in a timely manner.

Pursuant to general contract principles and Code of Civil Procedure sections 1021 and 1021.5, Rapid Care agrees to reimburse Englander and his counsel for the reasonable fees and costs incurred in connection with work performed under this Section in an amount not to exceed \$15,000 exclusive of fees and costs on appeal, if any. Within ten days of receiving a monthly invoice for work performed under this Section, Rapid Care will remit payment to the address provided in Section 3.3

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 remaining provisions shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement are 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 Rapid Care shall provide written notice to Englander of the 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 by this Settlement Agreement shall be in writing and 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:

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For Rapid Care:

Marty Estrada, President
Rapid Care, Inc.
2080 Los Palmas Drive, Suite 101
Carlsbad, CA 92011

with a copy to:

Melissa A. Jones, Esq.
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

For Englander:

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

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

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

11. MODIFICATION

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

12. AUTHORIZATION

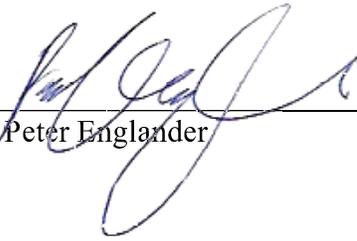
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Party and have read, understand, and agree to all of the terms and conditions contained herein.

AGREED TO:

AGREED TO:

Date: June 8, 2012

Date: _____

By:  _____
Peter Englander

By: _____
Kevin Alden, President
Rapid Care, Inc.

12. **AUTHORIZATION**

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

AGREED TO:

AGREED TO:

Date: _____

Date: 06/28/2013 _____

By: _____
Peter Englander

By:  _____
Kevin Alden, President
Rapid Care, Inc.