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7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10 UNLIMITED CIVIL JURISDICTION  
11

12 LAURENCE VINOCUR

13 Plaintiff,

14 v.

15 STUDIO DESIGNS, INC.; DICK BLICK  
16 HOLDINGS, INC.; ONTEL PRODUCTS  
CORPORATION; et al.,

17 Defendant.  
18  
19  
20

) Case No. RG13700786  
)  
)

) Assigned for All Purposes to  
) Judge Hon. George C. Hernandez, Jr.,  
) Department 17

) **[PROPOSED] CONSENT JUDGMENT AS**  
) **TO STUDIO DESIGNS, INC.**

) **(Health & Safety Code § 25249.6 et seq.**  
) **Notice Served: May 31, 2013)**

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Laurence Vinocur  
4 (“Vinocur”) and the defendant Studio Designs, Inc. (“Studio”) with Vinocur and Studio collectively  
5 referred to as the “Parties.”

6 **1.2 Laurence Vinocur**

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

10 **1.3 Studio Designs, Inc.**

11 Studio 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 1.4.1 Vinocur alleges that Studio manufactured, imported, sold and/or distributed  
16 for sale in California, upholstered drafting chairs with foam padding containing tris(1,3-dichloro-2-  
17 propyl) phosphate (“TDCPP”) without the requisite Proposition 65 health hazard warnings.  
18 Vinocur alleges that TDCPP escapes from foam padding, leading to human exposures.

19 1.4.2 Pursuant to Proposition 65, on October 28, 2011, California identified and  
20 listed TDCPP as a chemical known to cause cancer. TDCPP became subject to the “clear and  
21 reasonable warning” requirements of Proposition 65 one year later on October 28, 2012. (Cal. Code  
22 Regs., tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 and 25249.10(b).)

23 **1.5 Product Description**

24 The categories of products that are covered by this Consent Judgment as to Studio are  
25 identified on Exhibit A (hereinafter “Products”). Polyurethane foam that is supplied, shaped or  
26 manufactured for use as a component of another product, such as upholstered furniture, but which is  
27 not itself a finished product, is specifically excluded from the definition of Products and shall not be  
28 identified by Studio on Exhibit A as a Product.

1           **1.6 Notice of Violation**

2           On or about May 31, 2013, Vinocur served Studio, another defendant, and certain requisite  
3 public enforcement agencies with a “60-Day Notice of Violation” (“Notice”) that provided the  
4 recipients with notice of alleged violations of Proposition 65 based on the alleged failure to warn  
5 customers, consumers, and workers in California that certain Products expose users to TDCPP. To  
6 the best of the Parties’ knowledge, no public enforcer has commenced or is diligently prosecuting  
7 the allegations set forth in the Notice.

8           **1.7 Complaint**

9           On October 24, 2013, Vinocur filed a Complaint in the Superior Court for the County of  
10 Alameda against Studio Designs, Inc., others, and Does 1 through 150 in an action styled as  
11 *Vinocur v. Studio Designs, Inc.; Dick Blick Holdings, Inc.; Ontel Products Corporation*, Case No.  
12 RG13700786, alleging violations of Proposition 65, based on the alleged unwarned exposures to  
13 TDCPP and/or tris(2-chloroethyl) phosphate (“TCEP”) contained in the Products.

14           **1.8 No Admission**

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

23           **1.9 Consent to Jurisdiction**

24           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
25 jurisdiction over Studio as to the allegations contained in the Complaint, that venue is proper in the  
26 County of Alameda, and that this Court has jurisdiction to enter and enforce the provisions of this  
27 Consent Judgment pursuant to Proposition 65 and California Code of Civil Procedure § 664.6.

28

1 **2. DEFINITIONS**

2 **2.1 California Customers**

3 “California Customer” shall mean any customer that Studio reasonably understands is  
4 located in California, has a California warehouse or distribution center, maintains a retail outlet in  
5 California, or has made internet sales into California on or after October 28, 2011.

6 **2.2 Detectable**

7 “Detectable” shall mean containing more than 25 parts per million (“ppm”) (the equivalent  
8 of .0025%) of any one chemical in any material, component, or constituent of a  
9 subject product, when analyzed pursuant to EPA testing methodologies 3545 and 8270C, or  
10 equivalent methodologies utilized by federal or state agencies to determine the presence, and  
11 measure the quantity, of TDCPP in a solid substance.

12 **2.3 Effective Date**

13 “Effective Date” shall mean July 15, 2014.

14 **2.4 Private Label Covered Products**

15 “Private Label Covered Products” means Products that bear a brand or trademark owned or  
16 licensed by a Retailer or affiliated entity that are sold or offered for sale by a Retailer in the State of  
17 California.

18 **2.5 Reformulated Products**

19 “Reformulated Products” shall mean Products that contain no Detectable amount of each  
20 TDCPP and/or TCEP.

21 **2.6 Reformulation Standard**

22 The “Reformulation Standard” shall mean containing no more than 25 ppm for each of  
23 TDCPP and/or TCEP.

24 **2.7 Retailer**

25 “Retailer” means an individual or entity that offers a Product for retail sale to consumers in  
26 the State of California.

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1 **3. INJUNCTIVE RELIEF: REFORMULATION**

2 **3.1 Reformulation Commitment**

3 Commencing on August 30, 2014, Studio shall not manufacture or import for distribution or  
4 sale to California Customers, or cause to be manufactured or imported for distribution or sale to  
5 California Customers, any Products that are not Reformulated Products.

6 **3.2 Vendor Notification/Certification**

7 On or before the Effective Date, Studio shall provide written notice to all of its then-current  
8 vendors, upstream providers of Products or component parts of Products, of the Products that will  
9 be sold or offered for sale in California, or to California Customers, instructing each such vendor to  
10 use reasonable efforts to provide only Reformulated Products for potential sale in California. In  
11 addressing the obligation set forth in the preceding sentence, Studio shall not employ statements  
12 that will encourage a vendor to delay compliance with the Reformulation Standard. Studio shall  
13 subsequently obtain written certifications, no later than September 1, 2014, from such vendors, and  
14 any newly engaged vendors, that the Products manufactured by such vendors are in compliance  
15 with the Reformulation Standard. Certifications shall be held by Studio for at least two years after  
16 their receipt and shall be made available to Vinocur upon request.

17 **3.3 Products No Longer in Studio's Control**

18 No later than 45 days after the Effective Date, Studio shall send a letter, electronic or  
19 otherwise ("Notification Letter") to: (1) each California Customer and/or Retailer (including, but  
20 not limited to, Dick Blick Holdings, Inc.) which it, after October 28, 2011, supplied the item for  
21 resale in California described as an exemplar in the Notice Studio received from Vinocur  
22 ("Exemplar Product(s)") that do not have warnings; and (2) any California Customer and/or  
23 Retailer that Studio reasonably understands or believes had any inventory for resale in California of  
24 Exemplar Product(s) as of the relevant Notice's dates, that do not already have warnings. The  
25 Notification Letter shall advise the recipient that each Exemplar Product(s) contains TDCPP, a  
26 chemical known to the State of California to cause cancer, as appropriate depending on the  
27 allegations in the Notice, and request that the recipient either: (a) label the Exemplar Product(s)  
28 remaining in inventory for sale in California, or to California Customers, pursuant to Section 3.5; or

1 (b) return, at Studio's sole expense, all units of the Exemplar Product(s) held for sale in California,  
2 or to California Customers, to Studio or a party Studio has otherwise designated. The Notification  
3 Letter shall require a response from the recipient within 15 days confirming whether the Exemplar  
4 Product(s) will be labeled or returned. Studio shall maintain records of all correspondence or other  
5 communications generated pursuant to this Section for two years after the Effective Date and shall  
6 promptly produce copies of such records upon Vinocur's written request.

7 **3.4 Current Inventory**

8 Any Products in, or manufactured and en route to, Studio's inventory as of or after July 30,  
9 2014, that do not qualify as Reformulated Products and that Studio has reason to believe may be  
10 sold or distributed for sale in California, shall contain a clear and reasonable warning as set forth in  
11 Section 3.5 below unless Section 3.6 applies.

12 **3.5 Product Warnings**

13 **3.5.1 Product Labeling**

14 Any warning provided under Section 3.3 or 3.4 above shall be affixed to the packaging,  
15 labeling, or directly on each Product. Each warning shall be prominently placed with such  
16 conspicuousness as compared with other words, statements, designs, or devices as to render it likely  
17 to be read and understood by an ordinary individual under customary conditions before purchase.  
18 Each warning shall be provided in a manner such that the consumer or user understands to which  
19 specific Product the warning applies, so as to minimize the risk of consumer confusion. The parties  
20 understand that Studio has implemented a warning program prior to the Effective Date, however, no  
21 later than 45 days after the Effective Date all warnings shall comply with the language in this  
22 section below.

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1 A warning provided pursuant to this Consent Judgment shall state:

2 **WARNING:** This product contains TDCPP, a flame  
3 retardant chemical known to the State  
4 of California to cause cancer.<sup>1</sup>

5 Attached as Exhibit B are template warnings developed by Vinocur that are deemed to be  
6 clear and reasonable for purposes of this Consent Judgment.<sup>2</sup> Provided that the other requirements  
7 set forth in this Section are addressed, including as to the required warning statement and method of  
8 transmission as set forth above, Studio remains free not to utilize the template warnings.

### 8 3.5.2 Internet Website Warning

9 A warning shall be given in conjunction with the sale of the Products to California, or  
10 California Customers, via the internet, which warning shall appear on one or more web pages  
11 displayed to a purchaser during the checkout process. The following warning statement shall be  
12 used and shall: (a) appear adjacent to or immediately following the display, description, or price of  
13 the Product; (b) appear as a pop-up box; or (c) otherwise appear automatically to the customer. The  
14 warning text shall be the same type size or larger than the Product description text:

15 **WARNING:** This product contains TDCPP, a flame  
16 retardant chemical known to the State  
17 of California to cause cancer.<sup>3</sup>

### 18 3.6 Alternatives to Interim Warnings

19 The obligations of Studio under Section 3.3 shall be relieved provided Studio certifies on or  
20 before July 30, 2014 that only Exemplar Products meeting the Reformulation Standard will be

21 <sup>1</sup> The regulatory safe harbor warning language specified in 27 CCR § 25603.2 may also be used if  
22 Studio had begun to use it, prior to the Effective Date. If Studio seeks to use alternative warning language,  
23 other than the language specified above or the safe harbor warning specified in 27 CCR § 25603.2, or seeks  
24 to use an alternate method of transmission of the warning, it must obtain the Court's approval of its proposed  
25 alternative and provide all Parties and the Office of the Attorney General with timely notice and the  
26 opportunity to comment or object before the Court acts on the request. The Parties agree that the following  
27 warning language shall not be deemed to meet the requirements of 27 CCR § 25601 *et seq.* and shall not be  
28 used pursuant to this Consent Judgment: (a) "cancer or birth defects or other reproductive harm"; and (b)  
"cancer, birth defects or other reproductive harm."

<sup>2</sup> The characteristics of the template warnings are as follows: (a) a hang tag measuring 3" x 5", with  
no less than 12 point font, with the warning language printed on each side of the hang tag, which shall be  
affixed directly to the Product; (b) a warning sign measuring 8.5" x 11", with no less than 32 point font, with  
the warning language printed on each side, which shall be affixed directly to the Product; and (c) for  
Products sold at retail in a box or packaging, a warning sticker measuring 3" x 3", with no less than 12 point  
font, which shall be affixed directly to the Product packaging.

<sup>3</sup> Footnote 1, *supra*, applies in this context as well.

1 offered for sale in California, or to California Customers for sale in California, after August 30,  
2 2014. The obligations of Studio under Section 3.4 shall be relieved provided Studio certifies on or  
3 before July 30, 2014 that, after December 30, 2014, it will only distribute or cause to be distributed  
4 for sale in, or sell in California, or to California Customers for sale in California, Products (i.e.,  
5 Products beyond the Exemplar Product) meeting the Reformulation Standard. The certifications  
6 provided by this Section are material terms and time is of the essence.

7 **4. MONETARY PAYMENTS**

8 **4.1 Civil Penalties Pursuant to Health & Safety Code § 25249.7(b)**

9 In settlement of all the claims referred to in this Consent Judgment, Studio shall pay the  
10 civil penalties shown for it on Exhibit A in accordance with this Section. Each penalty payment  
11 will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d),  
12 with 75% of the funds remitted to the California Office of Environmental Health Hazard  
13 Assessment (“OEHHA”), 25% of the penalty remitted to Vinocur. Each penalty payment shall be  
14 made within two business days of the date it is due and be delivered to the addresses listed in  
15 Section 4.5 below. Studio shall be liable for payment of interest, at a rate of 10% simple interest,  
16 for all amounts due and owing under this Section that are not received within five business days of  
17 the due date.

18 4.1.1 Initial Civil Penalty. On or before the Effective Date, Studio shall make an  
19 initial civil penalty payment in the amount identified on Studio’s Exhibit A to “Cooper, White &  
20 Cooper LLP.” Cooper, White & Cooper LLP shall provide The Chanler Group with written  
21 confirmation within five days of receipt that the funds have been deposited in a trust account.  
22 Within two days of the date that this Consent Judgment is approved by the Court, Cooper, White &  
23 Cooper shall issue two separate checks for the initial civil penalty payment to “OEHHA” and  
24 “Laurence Vinocur, Client Trust Account.”

25 4.1.2 Second Civil Penalty. On or before July 30, 2014, Studio shall make a  
26 second civil penalty payment in the amount identified on Studio’s Exhibit A. The amount of the  
27 second penalty may be reduced according to any penalty waiver Studio is eligible for under  
28 Sections 4.1.4(i) and 4.1.4(iii), below.

1                   4.1.3 Third Civil Penalty. On or before February 15, 2015, Studio shall make a  
2 third civil penalty payment in the amount identified on Studio’s Exhibit A. The amount of the third  
3 penalty may be reduced according to any penalty waiver Studio is eligible for under Sections  
4 4.1.4(ii) and 4.1.4(iv), below.

5                   4.1.4 Reductions to Civil Penalty Payment Amounts. Studio may reduce the  
6 amount of the second and/or third civil penalty payments identified on Studio’s Exhibit A by  
7 providing Vinocur with certification of certain efforts undertaken to reformulate their Products or  
8 limit the ongoing sale of non-reformulated Products in California. The options to provide a written  
9 certification in lieu of making a portion of Studio’s civil penalty payment constitute material terms  
10 of this Consent Judgment, and with regard to such terms, time is of the essence.

11                   4.1.4(i) **Partial Penalty Waiver for Accelerated Reformulation of**  
12 **Products Sold or Offered for Sale in California.**

13                   As shown Studio’s Exhibit A, a portion of the second civil penalty shall be waived, to the  
14 extent that it has agreed that, as of August 15, 2014, and continuing into the future, it shall only  
15 manufacture or import for distribution or sale to California Customers or cause to be manufactured  
16 or imported for distribution or sale to California Customers, Reformulated Products. If Studio  
17 elects to exercise this provision, an officer or other authorized representative of Studio shall provide  
18 Vinocur with a written certification confirming compliance with such conditions, which  
19 certification must be received by Vinocur’s counsel on or before August 15, 2014.

20                   4.1.4(ii) **Partial Penalty Waiver for Extended Reformulation.**

21                   As shown on Studio’s Exhibit A, a portion of the third civil penalty shall be waived, to the  
22 extent that it has agreed that, as of August 30, 2014, and continuing into the future, it shall only  
23 manufacture or import for distribution or sale in California or cause to be manufactured or imported  
24 for distribution or sale in California, Reformulated Products which also do not contain tris(2,3-  
25 dibromopropyl)phosphate (“TDBPP”) in a detectable amount of more than 25 parts per million  
26 (“ppm”) (the equivalent of .0025%) in any material, component, or constituent of a subject product,  
27 when analyzed pursuant to EPA testing methodologies 3545 and 8270C, or equivalent  
28 methodologies utilized by federal or state agencies to determine the presence, and measure the

1 quantity, of TDBPP in a solid substance. If Studio elects to exercise this provision, an officer or  
2 other authorized representative of Studio shall provide Vinocur with a written certification  
3 confirming compliance with such conditions, which certification must be received by Vinocur's  
4 counsel on or before November 15, 2014.

5 **4.1.4(iii) Partial Penalty Waiver for Withdrawal of Unreformulated**  
6 **Exemplar Products from the California Market.**

7 As shown on Studio's Exhibit A, a portion of the second civil penalty shall be waived, if an  
8 officer or other authorized representative of Studio provides Vinocur with written certification, by  
9 December 30, 2014, confirming that each individual or establishment in California to which it  
10 supplied the Exemplar Product after October 28, 2011, has elected to return all remaining Exemplar  
11 Products still held for sale in California, or that no such Exemplar Products remain for sale in  
12 California.

13 **4.1.4(iv) Partial Penalty Waiver for Termination of Distribution to**  
14 **California of Unreformulated Inventory.**

15 As shown on Studio's Exhibit A, a portion of the third civil penalty shall be waived, if an  
16 officer or other authorized representative of Studio provides Vinocur with written certification, on  
17 or before October 15, 2014, confirming that, as of December 30, 2014, it has and will continue to  
18 distribute, offer for sale, or sell in California, or to California Customers, only Reformulated  
19 Products.

20 **4.2 Representations**

21 Studio represents that the sales data and other information concerning its size, knowledge of  
22 TDCPP, and prior reformulation and/or warning efforts, it provided to Vinocur was truthful to its  
23 knowledge and a material factor upon which Vinocur has relied to determine the amount of civil  
24 penalties assessed pursuant to Health & Safety Code § 25249.7 in this Consent Judgment.

25 If, within nine months of the Effective Date, Vinocur discovers and presents to Studio,  
26 evidence demonstrating that the preceding representation and warranty was materially inaccurate,  
27 then Studio shall have 30 days to meet and confer regarding Vinocur's contention. Should this 30  
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1 day period pass without any such resolution between Vinocur and Studio, Vinocur shall be entitled  
2 to file a formal legal claim including, but not limited to, a claim for damages for breach of contract.

3 Studio further represents that in implementing the requirements set forth in Sections 3.1 and  
4 3.2 of this Consent Judgment, it will voluntarily employ commercial best efforts to achieve  
5 reformulation of its Products and Additional Products on a nationwide basis and not employ  
6 statements that will encourage a vendor to limit its compliance with the Reformulation Standard to  
7 goods intended for sale to California Consumers.

8 **4.3 Stipulated Penalties for Certain Violations of the Reformulation**  
9 **Standard.**

10 If Vinocur provides notice and appropriate supporting information to Studio that levels of  
11 TDCPP or TCEP in excess of the Reformulation Standard have been detected in one or more  
12 Products labeled or otherwise marked in an identifiable manner as manufactured or imported after a  
13 deadline for meeting the Reformulation Standard has arisen for Studio under Sections 3.1 or 3.6  
14 above, Studio may elect to pay a stipulated penalty to relieve any further potential liability under  
15 Proposition 65 or sanction under this Consent Judgment as to Products sourced from the vendor in  
16 question.<sup>4</sup> The stipulated penalty shall be \$1,500 if the violation level is below 100 ppm, and  
17 \$3,000 if the violation level is between 100 ppm and 249 ppm, this being applicable for any amount  
18 in excess of the Reformulation Standards but under 250 ppm.<sup>5</sup> Vinocur shall further be entitled to  
19 reimbursement of his associated expense in an amount not to exceed \$5,000 regardless of the  
20 stipulated penalty level. Studio under this Section must provide notice and appropriate supporting  
21 information relating to the purchase (e.g. vendor name and contact information including  
22 representative, purchase order, certification (if any) received from vendor for the exemplar or  
23 subcategory of products), test results, and a letter from a company representative or counsel  
24 attesting to the information provided, to Vinocur within 30 calendar days of receiving test results

25  
26 <sup>4</sup> This Section shall not be applicable where the vendor in question had previously been found by  
27 Studio to have provided unreliable certifications as to meeting the Reformulation Standard in its Products on  
28 more than one occasion. Notwithstanding the foregoing, a stipulated penalty for a second exceedance by  
Studio's vendor at a level between 100 and 249 ppm shall not be available after August 1, 2015.

<sup>5</sup> Any stipulated penalty payments made pursuant to this Section should be allocated and remitted in  
the same manner as set forth in Sections 4.1 and 4.5, respectively.

1 from Vinocur’s counsel. Any violation levels at or above 250 ppm shall be subject to the full  
2 remedies provided pursuant to this Consent Judgment and at law.

3 **4.4 Reimbursement of Fees and Costs**

4 The Parties acknowledge that Vinocur and his counsel offered to resolve this dispute  
5 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
6 this fee reimbursement issue to be resolved after the material terms of the agreement had been  
7 settled. Shortly after the other settlement terms had been finalized, Studio expressed a desire to  
8 resolve the fee and cost issue. Studio then agreed to pay Vinocur and his counsel under general  
9 contract principles and the private attorney general doctrine codified at California Code of Civil  
10 Procedure section 1021.5 for all work performed through the mutual execution of this agreement,  
11 including the fees and costs incurred as a result of investigating, bringing this matter to Studio’s  
12 attention, negotiating a settlement in the public interest, and seeking court approval of the same. In  
13 addition, the negotiated fee and cost figure expressly includes the anticipated significant amount of  
14 time Vinocur’s counsel will incur to monitor various provisions in this agreement over the next two  
15 years, with the exception of additional fees that may be incurred pursuant to Studio’s election in  
16 Section 11. Studio more specifically agreed, upon the Court’s approval and entry of this Consent  
17 Judgment, to pay Vinocur’s counsel the amount of fees and costs indicated on Studio’s Exhibit A.  
18 Studio shall, within five days of the mutual execution of this Consent Judgment by the Parties, issue  
19 a check payable to “Cooper, White & Cooper LLP” in the amount of half of the fees and costs  
20 indicated on Exhibit A to be held in trust by Cooper, White & Cooper LLP for The Chanler Group.  
21 Cooper, White & Cooper LLP shall provide The Chanler Group with written confirmation within  
22 five days of receipt that the funds have been deposited in a trust account. Within two business days  
23 of the date this Consent Judgment is approved by the Court, Cooper, White & Cooper LLP shall  
24 issue a check payable to “The Chanler Group” to the address found in Section 8 below. Within  
25 ninety (90) days of the approval of this Consent Judgment, Studio shall issue a second and final  
26 check for the remaining half of the attorneys’ fees and costs, payable to “The Chanler Group” and  
27 deliver the check to The Chanler Group at the address found in Section 8 below.

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1 violations of Proposition 65 through the Effective Date based on unwarned exposures to TDCPP in  
2 the Products, as set forth in the Notice. Compliance with the terms of this Consent Judgment  
3 constitutes compliance with Proposition 65 with respect to exposures to TDCPP from the Products,  
4 as set forth in the Notice. The Parties further understand and agree that this Section 5.1 release shall  
5 not extend upstream to any entities that manufactured the Products or any component parts thereof,  
6 or any distributors or suppliers who sold the Products or any component parts thereof to Studio,  
7 except that an entity upstream of Studio that is a Retailer of a Private Labeled Covered Product  
8 shall be released as to the Private Labeled Covered Products offered for sale in California, or to  
9 California Customers, by the Retailer in question.

10 **5.2 Vinocur's Individual Releases of Claims**

11 Vinocur, in his individual capacity only and *not* in his representative capacity, provides a  
12 release herein which shall be effective as a full and final accord and satisfaction, as a bar to all  
13 actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims,  
14 liabilities, and demands of Vinocur of any nature, character, or kind, whether known or unknown,  
15 suspected or unsuspected, limited to and arising out of alleged or actual exposures to TDCPP in the  
16 Products or Additional Products (as defined in Section 11.1 and delineated on Studio's Exhibit A)  
17 manufactured, imported, distributed, or sold by Studio prior to the Effective Date. The Parties  
18 further understand and agree that this Section 5.2 release shall not extend upstream to any entities  
19 that manufactured the Products or Additional Products, or any component parts thereof, or any  
20 distributors or suppliers who sold the Products or Additional Products, any component parts thereof  
21 to Studio, except that an entity upstream of Studio that is a Retailer of a Private Labeled Covered  
22 Product (or Additional) Product shall be released as to the Private Labeled Covered (or Additional)  
23 Products offered for sale in California by the Retailer in question. Nothing in this Section affects  
24 Vinocur's right to commence or prosecute an action under Proposition 65 against a Releasee that  
25 does not involve Studio's Products or Additional Products.

1           **5.3 Studio's Release of Vinocur**

2           Studio, on behalf of itself, its past and current agents, representatives, attorneys, successors,  
3 and assignees, hereby waives any and all claims against Vinocur and his attorneys and other  
4 representatives, for any and all actions taken or statements made (or those that could have been  
5 taken or made) by Vinocur and his attorneys and other representatives, whether in the course of  
6 investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with  
7 respect to the Products or Additional Products.

8           **6. COURT APPROVAL**

9           This Consent Judgment is not effective until it is approved and entered by the Court and  
10 shall be null and void if, for any reason, it is not approved and entered by the Court within one year  
11 after it has been fully executed by all Parties. If the Court does not approve the Consent Judgment,  
12 the Parties shall meet and confer as to whether to modify the language or appeal the ruling. If the  
13 Parties do not jointly agree on a course of action to take, then the case shall proceed in its normal  
14 course on the Court's trial calendar. If the Court's approval is ultimately overturned by an appellate  
15 court, the Parties shall meet and confer as to whether to modify the terms of this Consent Judgment.  
16 If the Parties do not jointly agree on a course of action to take, then the case shall proceed in its  
17 normal course on the Court's trial calendar. In the event that this Consent Judgment is entered by  
18 the Court and subsequently overturned by any appellate court, any monies that have been provided  
19 to OEHHA, Vinocur or his counsel pursuant to Section 4, above, shall be refunded within 15 days  
20 of the appellate decision becoming final. If the Court does not approve and enter the Consent  
21 Judgment within one year of the Effective Date, any monies that have been provided to OEHHA or  
22 held in trust for Vinocur or his counsel pursuant to Section 4, above, shall be refunded to the  
23 associated Studio within 15 days.

24           **7. GOVERNING LAW**

25           The terms of this Consent Judgment shall be governed by the laws of the State of California.  
26 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by  
27 reason of law generally, or if any of the provisions of this Consent Judgment are rendered  
28 inapplicable or are no longer required as a result of any such repeal or preemption, or rendered

1 inapplicable by reason of law generally as to the Products, then Studio may provide written notice  
2 to Vinocur of any asserted change in the law, and shall have no further obligations pursuant to this  
3 Consent Judgment with respect to, and to the extent that, the Products are so affected. Nothing in  
4 this Consent Judgment shall be interpreted to relieve Studio from any obligation to comply with any  
5 pertinent state or federal law or regulation.

6 **8. NOTICES**

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

11 To Studio:

12 At the address shown on Exhibit A

To Vinocur:

13 Proposition 65 Coordinator  
14 The Chanler Group  
15 2560 Ninth Street  
16 Parker Plaza, Suite 214  
17 Berkeley, CA 94710-2565

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

20 **9. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES**

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

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

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

27 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

28 11.1 In addition to the Products, where Studio has identified on Exhibit A additional  
products that contain TDCPP and that are sold or offered for sale by it in California, or to California  
Customers, (“Additional Products”), then by no later than the Effective Date, Studio may provide

1 Vinocur with additional information or representations necessary to enable him to issue a 60-Day  
2 Notice of Violation and valid Certificate of Merit therefore, pursuant to Health & Safety Code §  
3 25249.7, that includes the Additional Products. Polyurethane foam that is supplied, shaped or  
4 manufactured for use as a component of a product, such as upholstered furniture, is specifically  
5 excluded from the definition of Additional Products and shall not be identified by Studio on Exhibit  
6 A as an Additional Product. Except as agreed upon by Vinocur, Studio shall not include a product,  
7 as an Additional Product, that is the subject of an existing 60-Day Notice issued by Vinocur or any  
8 other private enforcer at the time of execution. After receipt of the required information, Vinocur  
9 agrees to issue a supplemental 60-day notice in compliance with all statutory and regulatory  
10 requirements for the Additional Products. Vinocur will, and in no event later than November 1,  
11 2014, prepare and file an amendment to this Consent Judgment to incorporate the Additional  
12 Products within the defined term “Products” and serve a copy thereof and its supporting papers  
13 (including the basis for supplemental stipulated penalties, if any) on the Office of the California  
14 Attorney General upon the Court’s approval and finding that the supplemental stipulated penalty  
15 amount, if any, is reasonable, the Additional Products shall become subject to Section 5.1 in  
16 addition to Section 5.2. Studio shall, at the time it elects to utilize this Section and tenders the  
17 additional information or representations regarding the Additional Products to Vinocur, tender to  
18 Cooper, White & Cooper LLP’s trust account an amount not to exceed \$8,750 as stipulated  
19 penalties and attorneys’ fees and costs incurred by Vinocur in issuing the new notice and engaging  
20 in other reasonably related activities, which may be released from the trust as awarded by the Court  
21 upon Vinocur’s application. Any fee award associated with the modification of the Consent  
22 Judgment to include Additional Products shall not offset any associated supplemental penalty  
23 award, if any. (Any tendered funds remaining in the trust thereafter shall be refunded to Studio  
24 within 15 days). Such payment shall be made to “in trust for The Chanler Group” and delivered as  
25 per Section 4.5.1(a) above.

26 11.2 Vinocur and Studio agree to support the entry of this agreement as a Consent  
27 Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The  
28 Parties acknowledge that, pursuant to California Health & Safety Code § 25249.7, a noticed motion

1 is required to obtain judicial approval of this Consent Judgment, which Vinocur shall draft and file.  
2 If any third party objection to the noticed motion is filed, Vinocur and Studio shall work together to  
3 file a reply and appear at any hearing before the Court. This provision is a material component of  
4 the Consent Judgment and shall be treated as such in the event of a breach.

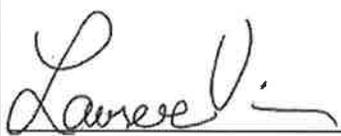
5 **12. MODIFICATION**

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

9 **13. AUTHORIZATION**

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

13 AGREED TO:

14  
15   
16 \_\_\_\_\_  
17 Plaintiff: Laurence Vinocur

AGREED TO:  
Defendant:  
Studio Designs, Inc.

By: \_\_\_\_\_  
Name:  
It's:

18  
19 Date: July 21, 2014

Date: July \_\_, 2014

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1 is required to obtain judicial approval of this Consent Judgment, which Vinocur shall draft and file.  
2 If any third party objection to the noticed motion is filed, Vinocur and Studio shall work together to  
3 file a reply and appear at any hearing before the Court. This provision is a material component of  
4 the Consent Judgment and shall be treated as such in the event of a breach.

5 **12. MODIFICATION**

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

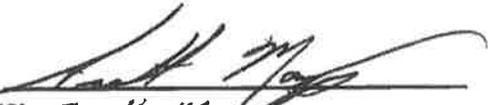
9 **13. AUTHORIZATION**

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

13 **AGREED TO:**

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17 \_\_\_\_\_  
18 Plaintiff: Laurence Vinocur

**AGREED TO:**  
Defendant:  
Studio Designs, Inc.

By:   
Name: Scott Maynes  
It's: President

19 Date: July \_\_, 2014

Date: July 15, 2014

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EXHIBIT A

- I. Name of Settling Defendant: STUDIO DESIGNS, INC.
- II. Names of Releasees (optional/partial): DICK BLICK HOLDINGS, INC.
- III. Types of Covered Products Applicable to Studio Designs, Inc.:
  - a) Upholstered Drafting Chairs containing TDCPP, including but not limited to, *Studio Designs Art Center Plus with Maxima II Drafting Chair, Model #32683, Model/Item #18622 (#0 17342 5; #0 17342 18622 4)*.
- IV. Types of Additional Products Studio Elects to Address (if any):
- V. Studio Designs, Inc. Required Settlement Payments
  - A. Penalties of \$29,500, as follows:
    - \$5,500 initial payment due to Cooper White and Cooper, LLP on or before the Effective Date and to be released to OEHHA and Vinocur on the date which this Consent Judgment is approved;
    - \$14,000 second payment due on or before July 30, 2014, of which \$8,000 may be waived pursuant to Section 4.1.4(i) and \$6,000 may be waived pursuant to Section 4.1.4(iii); and
    - \$10,000 third payment due on or before February 15, 2015, of which \$6,000 may be waived pursuant to Section 4.1.4(ii) and \$4,000 may be waived pursuant to Section 4.1.4(iv).
  - B. Payment to The Chanler Group for reimbursement of attorneys' fees and costs totaling \$34,000, as follows:
    - Fees and Costs attributable to Studio Designs, Inc.: \$34,000
      - \$17,000 to be issued to Defense Counsel's firm within five (5) days of the mutual execution of this Consent Judgment, and released to The Chanler Group within two (2) days of the approval of this Consent Judgment, and
      - \$17,000 to be paid within ninety (90) days from the date that this Court approves this consent Judgment.

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VI. Person(s) to receive Notices pursuant to Section 8

John Epperson  
Name

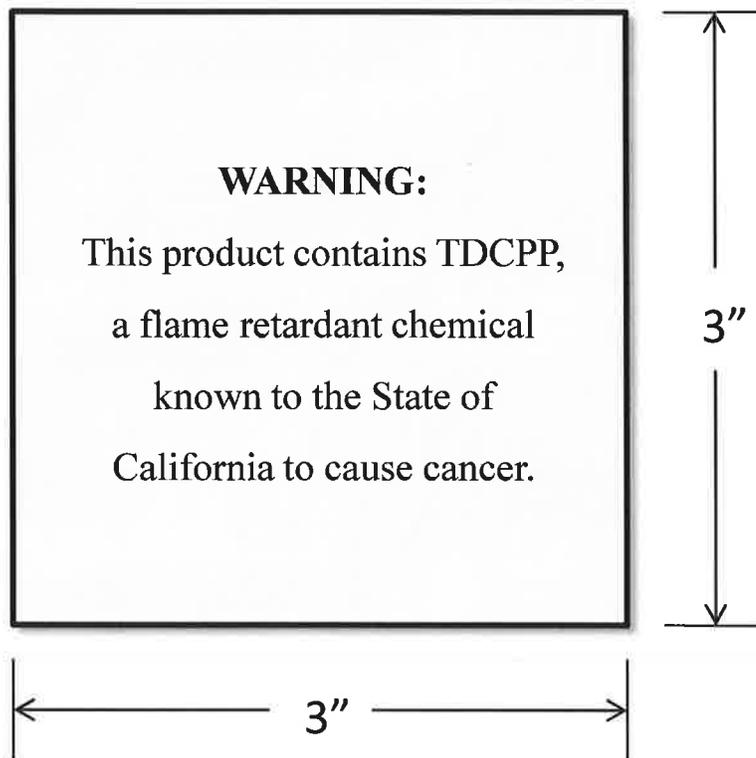
Attorney  
Title

Cooper, White & Cooper, LLP  
Company/Firm Name

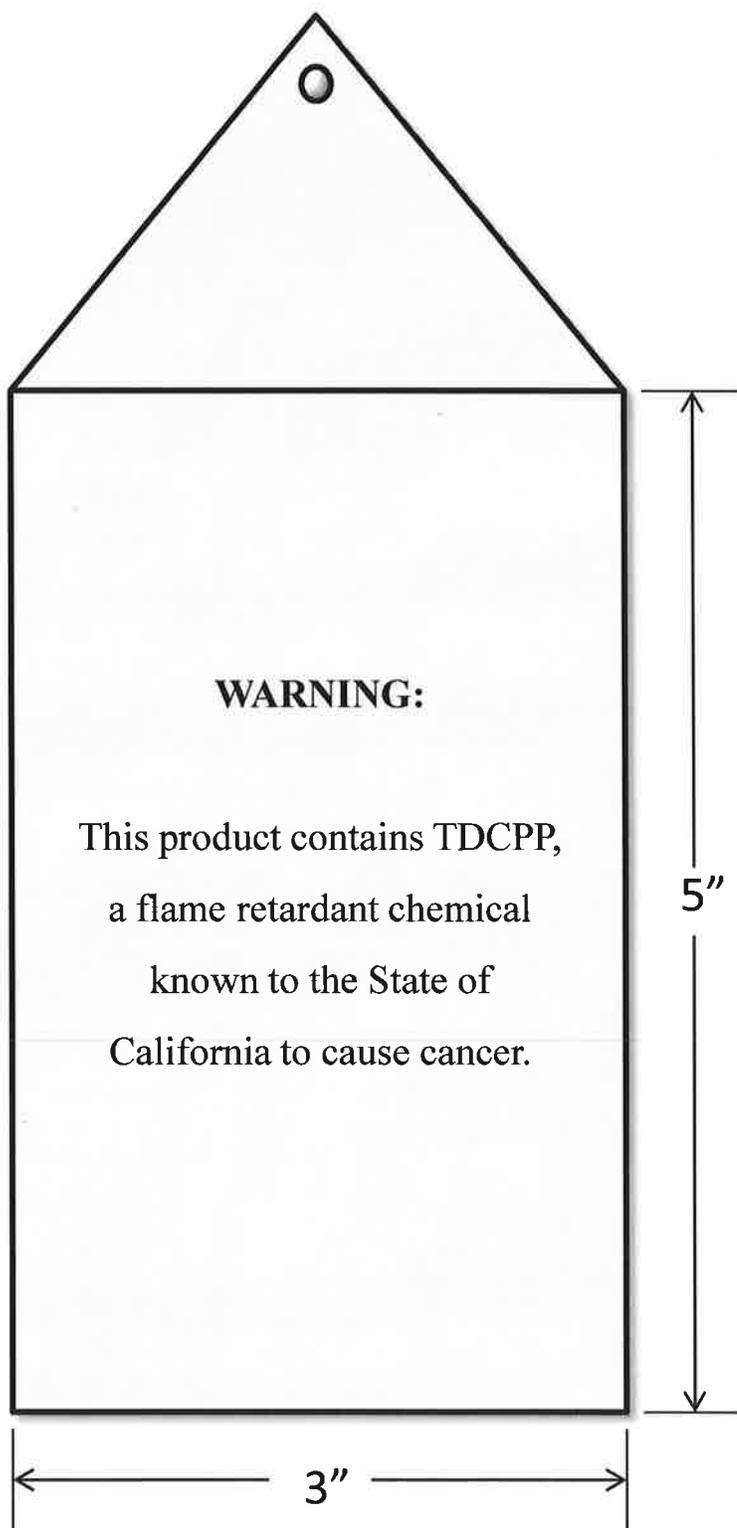
Address:  
201 California Street, 17<sup>th</sup> Floor  
San Francisco, CA  
94111

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EXHIBIT B  
(ILLUSTRATIVE WARNINGS)



**INSTRUCTIONS:** Minimum 12 pt. font. "WARNING:" text must be bold.



**INSTRUCTIONS:** Print warning on each side of hang tag.  
Minimum 12 pt. font. "WARNING:" text must be bold.

**WARNING:**

This product contains TDCPP, a flame retardant 8.5"

chemical known to the State of California to  
cause cancer.



**INSTRUCTIONS:** Minimum 32 pt. Font. "WARNING:" text must be bold and underlined.