

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between John Moore (“Moore”) and Misyd Corp. (“Misyd”), with Moore and Misyd collectively referred to as the “Parties.” Moore 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. Misyd 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 § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Moore alleges that Misyd manufactures, distributes, sells, and/or offers for sale, dresses with vinyl/PVC belts containing di(2-ethylhexyl)phthalate (“DEHP”) and lead without the requisite Proposition 65 health hazard warning. DEHP and lead are listed pursuant to Proposition 65 as chemicals known to 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 dresses with vinyl/PVC belts containing DEHP and lead, specifically limited to the *Ruby Rox Dress with Belt, Style #OID988li (#6 53618 924013 0)*, which were manufactured, distributed, sold and/or offered for sale in California by Misyd, hereinafter referred to as the “Products.”

1.4 Notice of Violation

On or about July 5, 2013, Moore served Misyd and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”), alleging that Misyd was in violation of Proposition 65 for failing to warn its customers and consumers in California that the Products exposed users to DEHP and lead. 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

Misyd 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 Misyd 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 Misyd of any fact, finding, conclusion of law, issue of law, or violation of law, such being specifically denied by Misyd. This Section shall not, however, diminish or otherwise affect Misyd'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 March 14, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards and Commitment

Commencing on the Effective Date and continuing thereafter, Misyd shall only manufacture, distribute, ship, sell, or offer to ship for sale in California Products that are "Reformulated Products." For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products that: (1) contain no more than 1,000 parts per million (0.1%) DEHP in each Accessible Component when analyzed pursuant to EPA testing methodologies 3580A and 8270C; (2) contain no more than 100 parts per million in each Accessible Component when analyzed pursuant to EPA testing methodologies 3050B and/or 6010B; and (3) contain a total lead content of no more than 1.0 microgram when using a wipe test pursuant to NIOSH test method 9100. For purposes of this agreement, "Accessible Components" shall mean components of a Product that can be touched by a person during normal, intended and foreseeable use of the Product.

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

In settlement of all claims referred to in this Settlement Agreement, Misyd shall pay a total of \$5,000 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 Moore, as follows:

3.1 Initial Civil Penalty

Misyd shall pay an initial civil penalty in the amount of \$1,000 on or before the Effective Date. Misyd shall issue two separate checks to: (a) “OEHHA” in the amount of \$750; and (b) “The Chanler Group in Trust for John Moore” in the amount of \$250. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Final Civil Penalty

Misyd shall pay a final civil penalty of \$4,000 on or before April 15, 2014. The final civil penalty shall be waived in its entirety, however, if, no later than April 1, 2014, an officer of Misyd provides Moore with written certification that, as of the date of such certification and continuing into the future, Misyd has met the reformulation standard specified in Section 2.1 above, such that all Products manufactured, imported, distributed, sold and offered for sale in California by Misyd are Reformulated Products. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence. Misyd shall issue two separate checks for its final civil penalty payments to: (a) “OEHHA” in the amount of \$3,000; and (b) “The Chanler Group in Trust for John Moore” in the amount of \$1,000.

3.3 Payment Procedures

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

(a) All payments owed to Moore, pursuant to Sections 3.1 and 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 and 3.2, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
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 Gyurics
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, Misyd shall issue separate 1099 forms for each payment to Moore, 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 Moore 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. Moore 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 Moore 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. Misyd shall pay \$21,000 for fees and costs incurred as a result of investigating, bringing this matter to Misyd's attention, and negotiating a settlement in the public interest. Misyd 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 the Effective Date, to the address listed in Section 3.3.1 above.

5. RELEASES

5.1 Moore's Release of Misyd

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

In further consideration of the promises and agreements herein contained, Moore on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all Moore's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Moore 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 and lead in the Products

manufactured, distributed, sold and/or offered for sale by Misyd before the Effective Date, against Misyd and Releasees.

5.2 Misyd's Release of Moore

Misyd, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Moore 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 Moore 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, Misyd may ask Moore, in writing, to file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment and seek the court's approval of the consent judgment pursuant to California Health and Safety Code § 25249.7, or as may be otherwise allowed by law. If requested, Moore agrees to reasonably cooperate with Misyd and to use best efforts and that of his counsel to support the entry of a consent judgment incorporating the terms of this Settlement Agreement for approval by a superior court in California. Pursuant to CCP §§ 1021 and 1021.5, Misyd will reimburse Moore and his counsel for their reasonable fees and costs incurred drafting and filing the complaint, converting this Settlement Agreement into a proposed consent judgment, and seeking judicial approval of the settlement in an amount not to exceed \$16,000, exclusive of fees and costs incurred on appeal, if any. Misyd shall remit payment to The Chanler Group at the payment address provided in Section 3.3.1 above. Such additional fees shall be paid by Misyd within ten days after its receipt of monthly invoices from Moore for work performed under this paragraph.

7. 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.

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.

9. 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:

To Misyd:

Robert Borman, President
Misyd Corp.
1411 Wilson Street
Los Angeles, CA 90021

To Moore:

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

With copy to:

Susan L. Germaise
McGuireWoods LLP
1800 Century Park East
8th Floor
Los Angeles, CA 90067

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.

10. 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.

11. POST-EXECUTION ACTIVITIES

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

12. MODIFICATION

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

13. AUTHORIZATION

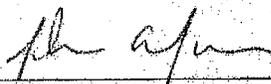
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

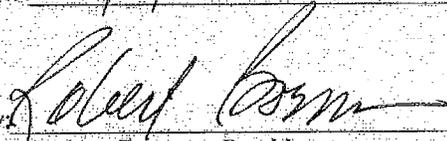
AGREED TO:

AGREED TO:

Date: 2 / 20 / 14

Date: 3 / 4 / 14

By: 
John Moore

By: 
Robert Borman, President
Misyd Corp.