

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Paul Wozniak (“Wozniak”) and National Presto Industries, Inc. (“National Presto”), with Wozniak and National Presto collectively referred to as the “Parties.” Wozniak is an individual residing in the State of 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. National Presto is a Wisconsin corporation that employs ten or more persons 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

Wozniak alleges that National Presto distributes, sells, and/or offers for sale tongs with vinyl/PVC grips containing di(2-ethylhexyl)phthalate (“DEHP”) in the State of California without the requisite Proposition 65 health hazard 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 tongs with vinyl/PVC grips containing DEHP located in the *Presto® 7-Function Canning Kit, #21-715, Stock No. 09995, UPC #0 75741 09995 8*, which were distributed and/or shipped in interstate commerce by National Presto and ultimately sold and/or offered for sale in the State of California, hereinafter referred to as the “Noticed Products.”

In addition to the Noticed Products listed above, this Settlement Agreement also covers the jar lifter and jar wrench with vinyl/PVC grips containing DEHP located in the *Presto® 7-Function Canning Kit, #21-715, Stock No. 09995, UPC #0 75741 09995 8*, which were distributed and/or shipped in interstate commerce by National Presto and ultimately sold and/or offered for sale in the State of California, hereinafter referred to as the “Additional Products.”

The Noticed Products and the Additional Products are hereinafter referred to collectively as the “Products.”

1.4 Notice of Violation

On or about February 7, 2014, Wozniak served National Presto and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”), alleging that National Presto was in violation of Proposition 65 for failing to warn consumers in the State of California that the Noticed Products exposed 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 National Presto. The Parties enter into this Settlement Agreement for the purpose of avoiding prolonged litigation. National Presto denies the material, factual, and legal allegations contained in the Notice that it exposed California consumers to levels of DEHP that exceed Proposition 65’s Maximum Allowable Dose Levels (“MADLs”) through the reasonable and foreseeable use of the Products and otherwise contends that the Products have been, and are, in compliance with all applicable laws. Nothing in this Settlement Agreement shall be construed as an admission by National Presto 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 National Presto of any fact, finding, conclusion of law, issue of law, or violation of law, such being specifically denied by National Presto. This Section shall not, however, diminish or otherwise affect National Presto’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 May 1, 2014.

2. **INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

2.1 **Reformulation Commitment**

As of the Effective Date, National Presto shall only distribute and/or ship in interstate commerce Products to be sold and/or offered for sale in the State of California that are Reformulated Products or that comply with the warning requirements found in Section 2.2 below. For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products containing less than or equal to 1,000 parts per million (0.1%) DEHP in each Accessible Component when analyzed pursuant to EPA testing methodologies 3580A and 8270C or equivalent methodologies utilized by federal or state agencies for the purpose of determining DEHP content in a solid substance. For purposes of this Settlement Agreement, "Accessible Component" shall mean a component of a Product that can be touched by a person during normal, intended, reasonable and foreseeable use of the Product.

2.2 **Warnings Commitment**

The Parties acknowledge and agree that National Presto has already implemented a warning program for all non-Reformulated Products distributed and/or shipped by National Presto in interstate commerce and ultimately sold and/or offered for sale in the State of California, which provides as follows:

"WARNING: This product contains a chemical known to the State of California to cause cancer."

"WARNING: This product contains a chemical known to the State of California to cause birth defects and other reproductive harm."

National Presto shall continue to use the above warnings on all non-Reformulated Products with a manufacture date of June 30, 2014 or earlier, that it distributes and/or ships in interstate commerce and which are ultimately sold and/or offered for sale in the State of California. However, for any non-Reformulated Products with a manufacture date of July 1, 2014 or later, distributed and/or shipped by National Presto in interstate commerce and ultimately sold and/or offered for sale in the State of California, National Presto shall provide clear and reasonable warnings as set forth below in subsections 2.2(a) and (b). Each warning shall be prominently placed with such conspicuousness as compared with other words,

statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* Product the warning applies, so as to minimize the risk of consumer confusion.

(a) Retail Store Sales.

(i) Product Labeling. National Presto shall affix a warning to the packaging, labeling, or directly on each Product shipped to and/or sold in retail outlets in California by any person selling the Products, that states:

WARNING: This product contains DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

(ii) Point-of-Sale Warnings. Alternatively, National Presto may provide warning signs in the form below to its customers in California with instructions to post the warnings in close proximity to the point of display of the Products. Such instruction sent to National Presto's customers shall be sent by certified mail, return receipt requested.

WARNING: This product contains DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

Where more than one Product is sold in proximity to other like items or to those that do not require a warning (*e.g.*, Reformulated Products as defined in Section 2.1), the following statement shall be used:¹

WARNING: The following products contain DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.
[list products for which warning is required]

(b) Mail Order Catalog and Internet Sales. In the event that National Presto sells Products via mail order catalog and/or the internet to customers located in California, National Presto shall ensure that the warnings given in the mail order catalog or on the internet

¹ For purposes of the Settlement Agreement, "sold in proximity" shall mean that the Product and another similar product are offered for sale close enough to each other that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

identify the *specific* Product to which the warning applies as further specified in Sections 2.2(b)(i) and (ii).

(i) **Mail Order Catalog Warning.** Any warning provided in a mail order catalog shall be in the same type size or larger than the Product description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Product:

WARNING: This product contains DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Product, National Presto may utilize a designated symbol to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front or back cover of the catalog or on the same page as any order form for the Product(s):

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Product. On each page where the designated symbol appears, National Presto must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

(ii) **Internet Website Warning.** A warning shall be given in conjunction with the sale of the Products via the internet, which warning shall appear either: (a) on the same web page on which a Product is displayed; (b) on the same web page as the order form for a Product; (c) on the same page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Product for which it is given in the same type size or larger than the Product description text:

WARNING: This product contains DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING: Products identified on this page with the following symbol ▼ contain DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm.

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

In settlement of all the claims referred to in this Settlement Agreement, National Presto shall pay a total of \$13,500 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 Wozniak, as follows:

3.1 Initial Civil Penalty

National Presto shall pay an initial civil penalty in the amount of \$3,500 on or before the Effective Date. National Presto shall issue two separate checks to: (a) one to “OEHHA” in the amount of \$2,625, representing 75% of the initial penalty; and (b) one to “The Chanler Group in Trust for Paul Wozniak” in the amount of \$875, representing 25% of the initial penalty. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Final Civil Penalty

National Presto shall pay a final civil penalty of \$10,000 on or before September 15, 2014. The final civil penalty shall be waived in its entirety, however, if, no later than September 1, 2014, an officer of National Presto provides Wozniak, care of his counsel, with written certification that, as of the date of such certification and continuing into the future, National Presto has met the reformulation standard specified in Section 2.1 above, such that thereafter all Products distributed and/or shipped in interstate commerce by National Presto and then ultimately sold and/or offered for sale in the State of California 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. Absent waiver of this penalty, National Presto shall issue two separate checks for its final civil penalty payments to: (a) one check made payable to “OEHHA” in the amount of \$7,500, representing 75% of the final civil penalty; and (b) one check made payable to “The Chanler Group in Trust for Paul Wozniak” in the amount of \$2,500, representing 25% of the final civil penalty.

3.3 Payment Procedures

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

(a) All payments owed to Wozniak, 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, National Presto shall issue separate 1099 forms for each payment to Wozniak, 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(b) above.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Wozniak 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 Settlement Agreement had been settled. National Presto 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 Wozniak 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 Settlement Agreement. National Presto shall pay \$27,500 for fees and costs incurred as a result of investigating, bringing this matter to National Presto's attention, and negotiating a settlement in the public interest. National Presto 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(a) above.

5. RELEASES

5.1 Wozniak's Release of National Presto

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

In further consideration of the promises and agreements herein contained, Wozniak on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all 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, imported, distributed and/or shipped to be sold and/or offered for sale in the State of California before the Effective Date against National Presto and Releasees.

5.2 National Presto's Release of Wozniak

National Presto, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Wozniak 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 Wozniak 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.

5.3 Waiver of Unknown Claims

The Parties acknowledge that they are 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.

The Parties hereby expressly waive and relinquish any and all rights and benefits which they may have under, or which may be conferred on them 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 they may lawfully waive such rights or benefits pertaining to the exposures to DEHP in the Products sold by Releasees.

6. POST-EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement, National Presto may ask Wozniak, 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, Wozniak agrees to reasonably cooperate with National Presto 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 the State of California. Pursuant to California Code of Civil Procedure §§ 1021 and 1021.5, National Presto will reimburse Wozniak 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. National Presto shall remit payment to The Chanler Group at the payment address provided in Section 3.3.1(a) above. Such additional fees shall be paid by National Presto within ten days after its receipt of monthly invoices from Wozniak 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 National Presto:

Douglas J. Frederick, Secretary
National Presto Industries, Inc.
3925 North Hastings Way
Eau Claire, WI 54703

To Wozniak:

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

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

Wozniak 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:

Date: April 29, 2014

By: 
Paul Wozniak

AGREED TO:

Date: _____

By: _____
Douglas J. Frederick, Secretary
National Presto Industries, Inc.

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.

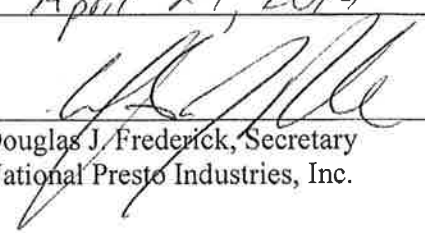
AGREED TO:

Date: _____

By: _____
Paul Wozniak

AGREED TO:

Date: April 29, 2014

By: 
Douglas J. Frederick, Secretary
National Presto Industries, Inc.