

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

WESTWOOD FOOTWEAR CORPORATION

Consumer Advocacy Group, Inc. (“CAG”) and Westwood Footwear Corporation (hereto referred to as “Westwood Footwear”), (CAG and Westwood Footwear collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) to settle CAG’s allegations that Westwood Footwear violated Proposition 65 for the purpose of avoiding prolonged and costly litigation. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the “Effective Date”).

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 Westwood Footwear previously sold, at various times, Footwear containing vinyl or polyvinylchloride (“PVC”) components (referred to throughout as the “Covered Products”). The Covered Products are limited to those sold by Westwood Footwear only.

1.3 CAG alleges that Covered Products contain Di (2-ethylhexyl) phthalate (DEHP), also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate,

and Di-n-Butyl Phthalate (DBP) and that Westwood Footwear did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code* § 25249.5, *et seq.* (“Proposition 65”)).

1.4 On January 1, 1988, the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. On December 2, 2005, the Governor of California added DBP to the list of chemicals known to the State to cause developmental, female, and male reproductive toxicity. These additions took place more than twenty (20) months before CAG served its “Sixty-Day Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which is further described below.

1.5 DEHP and DBP are referred to hereafter as the “Listed Chemicals.”

1.6 On or about July 11, 2013, CAG served Westwood Footwear and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Footwear, including but not limited to “Plastic Multicolor Garden Boots Item #10701 SWB W DEER 1” and “Plastic Multicolor Garden Boots Item #10701”, containing DEHP.

1.7 On or about October 15, 2013, CAG served Ross Dress for Less, Inc., Ross Stores, Inc., dd’s DISCOUNTS, and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For

Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Footwear, including but not limited to “Sweet Beauty, Smoke Color plastic sandals with black ribbon accent flower with rhinestones, 19 JR, Size 7, UPC 311 D5201 C922, Bar Code 400093111803, BLACK PTRN009, You pay \$4.99”, containing DEHP and DBP.

1.8 The Sixty-Day Notices (referred to as “Notices”) alleged that Westwood Footwear and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemicals.

1.9 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the Covered Products’ compliance with Proposition 65 (the “Dispute”).

1.10 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by Westwood Footwear, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum.

Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Westwood Footwear may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

This Settlement Agreement is a full, final, and binding resolution between CAG, on the one hand, and (a) Westwood Footwear, and its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively “Releasees”) and (b) all entities to whom Releasees directly or indirectly provide, distribute or sell the Covered Products, including but not limited to Ross Dress For Less, Inc., Ross Stores, Inc., dd’s Discounts, DB Shoe Company, LLC, distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, (“Downstream Releasees”), on the other hand, of any violation or claimed violation of Proposition 65 or any statutory or common law claim that has been or could have been asserted against the Releasees and Downstream Releasees regarding exposing persons to the Listed Chemical and the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped and/or otherwise distributed prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date. The Covered Products are only limited to those sold by Westwood Footwear. Westwood Footwear’s compliance with this

Settlement Agreement shall constitute compliance with Proposition 65 with respect to the Listed Chemicals in the Covered Products for both Releasees and Downstream Releasees for any Covered Products distributed and/or sold by Releasees or Downstream Releasees after the Effective Date.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases with respect to the Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action, 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) (collectively "Claims"), against Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted, only to the extent that such claims relate to Releasees' and/or Downstream Releasees' alleged exposure of persons to the Listed Chemicals contained in the Covered Products or any failure by Releasees and Downstream Releasees to warn about exposures to the Listed Chemicals contained in the Covered Products.

CAG acknowledges that it is familiar with Section 1542 of Civil Code, 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.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

3.0 Westwood Footwear's Duties

3.1 Westwood Footwear agrees, promises, and represents that immediately after the Effective Date of this Settlement Agreement, it will not manufacture or import any Covered Products containing DEHP or DBP in excess of 0.1% (1,000 ppm).

3.2 Westwood Footwear agrees, promises, and represents that, as of the Effective Date, to the extent it ships any Covered Products in inventory that have not been reformulated, it will provide warnings on such Covered Products that comply with Proposition 65. The warnings shall be provided in such a conspicuously and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating that "This product contains chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm" shall constitute compliance with Proposition 65 with respect to the Listed Chemicals in the Covered Products for

any Covered Products in inventory that had not been reformulated and are distributed and/or sold by Releasees or Downstream Releasees after the Effective Date.

4.0 Payments

4.1 Westwood Footwear agrees, to pay a total of fifty-five thousand dollars (\$55,000.00) by separate checks apportioned as follows:

4.1.1 Payment to CAG: Five thousand dollars (\$5,000.00) shall be paid to Consumer Advocacy Group, Inc. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, CAG shall provide Westwood Footwear with CAG's Employer Identification Number.

4.1.2 Attorneys' Fees and Costs: Forty-nine thousand dollars (\$49,000.00) of such payment shall be paid to Yeroushalmi & Associates, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Westwood Footwear's attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Associates shall provide Westwood Footwear with its Employer Identification Number.

4.1.3 Penalty: Westwood Footwear shall issue two separate checks for a

total amount of one thousand dollars (\$1,000.00) as penalties pursuant to Health & Safety Code § 25249.12: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of seven hundred fifty dollars (\$750.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of two hundred fifty dollars (\$250.00), representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of \$750.00. The second 1099 shall be issued in the amount of \$250.00 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Westwood Footwear represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Westwood Footwear to this Settlement Agreement.

6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Modification of Settlement Agreement

8.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

9.0 Application of Settlement Agreement

9.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and the Releasees and Downstream Releasees identified in Section 2 above.

10.0 Enforcement of Settlement Agreement

10.1 Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in paragraphs 11.2 and 11.3 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

10.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Products may be served or filed against Westwood Footwear by CAG, unless the party seeking enforcement or alleging violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least 90 days before serving or

filing any action or Notice of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 11.3 below. Any notice to Westwood Footwear must contain (a) the name of the product, (b) specific dates when the product was sold after the Effective Date in California without reformulation, (c) the store or other place at which the product was available for sale to consumers, and (d) any other evidence or other support for the allegations in the notice.

10.3 Within 30 days of receiving the notice described in Section 11.2, Westwood Footwear shall either (1) send the store or other place at which the product was available for sale to the public a letter directing that the offending product be immediately removed from inventory and returned to Westwood Footwear for full credit, including shipping costs, or (2) refute the information provided under Section 11.2. Should the parties be unable to resolve the dispute, any party may seek relief under Section 11.1.

11.0 Notification Requirements

11.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi
YEROUSHALMI & ASSOCIATES
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For Westwood Footwear:

Johnathan Zhang
President
Westwood Footwear Corporation
18955 E. Railroad St.
City of Industry, CA 91748

With a copy to:

Jeffrey B. Margulies
Norton Rose Fulbright
555 South Flower Street, 41st Floor
Los Angeles, CA 90071

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13.0 SEVERABILITY

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

14.0 GOVERNING LAW

14.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemicals and/or the Covered Products, then Westwood Footwear shall provide written notice to CAG of any

asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 12-23-13

By:  _____

Printed Name: Michel Sisson

Title: executive director

WESTWOOD FOOTWEAR CORPORATION

Dated: _____

By: _____

Printed Name: _____

Title: _____

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 Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: _____

By: _____

Printed Name: _____

Title: _____

WESTWOOD FOOTWEAR CORPORATION

Dated: Dec 20 2013

By:  _____

Printed Name: STEVEN J. ZIMNY

Title: President