

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Dr. Whitney R. Leeman and Modern Marketing Concepts, Inc.

This Settlement Agreement is entered into by and between Dr. Whitney R. Leeman (“Leeman”) and Modern Marketing Concepts, Inc. (“Modern Marketing”), with Leeman and Modern Marketing collectively referred to as the “Parties.” Leeman is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Modern Marketing 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 §§ 25249.5 *et seq.* (“Proposition 65”).

1.2 General Allegations

Leeman alleges that Modern Marketing has manufactured, imported, sold and/or distributed for sale in California vinyl/PVC cases containing di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 health hazard warnings. 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 vinyl/PVC cases containing DEHP including, but not limited to, the *Crosley 45 Record Carrier Case, CR4006A-TA, UPC #7 10244 29031 9* that are manufactured, imported, sold and/or distributed for sale in California by Modern Marketing (hereinafter the “Products”).

1.4 Notice of Violation

On November 15, 2013, Leeman served Modern Marketing and certain requisite public enforcement agencies with a “60-Day Notice of Violation” (“Notice”) that provided the recipients with notice of alleged violations of Proposition 65 based on Modern Marketing’s

alleged failure to warn its customers, consumers, workers and other individuals that the Products exposed users in California to DEHP. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

Modern Marketing denies the material factual and legal allegations contained in Leeman's Notice and maintains that all products that 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 Modern Marketing of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Modern Marketing of any fact, finding, conclusion, issue of law, or violation of law. However, this section shall not diminish or otherwise affect Modern Marketing'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 June 15, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

Reformulated Products are defined as Products containing DEHP in concentrations less than 0.1 percent (1,000 parts per million) when analyzed pursuant to U.S. Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C or any other methodology utilized by federal or state agencies for the purpose of determining the DEHP content in a solid substance.

2.2 Reformulation Commitment

As of the Effective Date all Products manufactured and/or purchased for sale in the State of California by, or on behalf of, Modern Marketing shall be Products that qualify as Reformulated Products as defined in Section 2.1 above.

3. MONETARY PAYMENTS

3.1 Civil Penalties Pursuant To Health & Safety Code § 25249.7(B)

In settlement of all the claims referred to in this Settlement Agreement, Modern Marketing shall pay a total of \$6,000 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) and (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 Leeman.

3.1.1 Initial Civil Penalty

On or before June 15, 2014, Modern Marketing shall pay an initial civil penalty in the amount of \$2,000. Modern Marketing shall provide its payment in two checks to: (a) “OEHHA” in the amount of \$1,500; and (b) “Dr. Whitney R. Leeman, Client Trust Account” in the amount of \$500. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.1.2 Final Civil Penalty

On or before September 30, 2014, Modern Marketing shall pay a final civil penalty in the amount of \$4,000. The final civil penalty shall be waived in its entirety, however, if an Officer of Modern Marketing provides Leeman with written certification that as of the date of such certification and continuing into the future, all Products manufactured, imported, distributed, sold and offered for sale in California by Modern Marketing are Reformulated Products. Leeman must receive any such certification on or before September 15, 2014, and time is of the essence. Unless waived, the final civil penalty shall be apportioned in accordance with California Health & Safety Code § 25249.12 (c)(1) & (d), with 75% of these funds remitted to OEHHA and the remaining 25% of the penalty remitted to Leeman, as provided by California Health & Safety Code § 25249.12(d). Unless waived, Modern Marketing shall provide its payment in two checks to: (a) “OEHHA” in the amount of \$3,000; and (b) “Dr. Whitney R.

Leeman, Client Trust Account” in the amount of \$1,000. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Reimbursement of Fees and Costs

The parties acknowledge that Leeman and her 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 reimbursement issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been finalized, Modern Marketing expressed a desire to resolve the fee and cost issue. The parties then attempted to (and did) reach an accord on the compensation due to Leeman and her counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5 for all work performed through the mutual execution of this agreement. Modern Marketing shall pay \$17,500 for fees and costs incurred as a result of investigating, bringing this matter to Modern Marketing’s attention, and negotiating a settlement in the public interest. Modern Marketing shall make the check payable to “The Chanler Group” and shall deliver payment on or before June 30, 2014, to the address listed in Section 3.3.1(a) below.

3.3 Payment Procedures

3.3.1 Issuance of Payments

(a) All payments owed to Leeman and her counsel, 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, pursuant to Section 3.1, shall be delivered directly to OEHHA (Memo line “Prop 65 Penalties”) at one of the following addresses, as appropriate:

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

3.3.2 Proof of Payment. A copy of each check payable to OEHHA shall be mailed, simultaneous with payment, to The Chanler Group at the address set forth in Section 3.3.1(a) above, as proof of payment to OEHHA.

4. CLAIMS COVERED AND RELEASED

4.1 Leeman's Release of Modern Marketing

This Settlement Agreement is a full, final and binding resolution between Leeman and Modern Marketing of any violation of Proposition 65 that was or could have been asserted by Leeman on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, against Modern Marketing, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Modern Marketing 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 Products that were manufactured, imported, distributed, sold and/or offered for sale by Modern Marketing in California before the Effective Date. This release is provided in Leeman's individual capacity and is not a release on behalf of the public.

In further consideration of the promises and agreements herein contained, Leeman on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all of her 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, sold and/or offered for sale by Modern Marketing before the Effective Date (collectively "claims"), against Modern Marketing and Releasees.

Leeman acknowledges that she is familiar with Section 1542 of the California 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.

Leeman, in her individual capacity only and *not* in her representative capacity, expressly waives and relinquishes any and all rights and benefits which she may have under, or which may be conferred on her by the provisions of Section 1542 of the California Civil Code, as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of or associated with the Products, manufactured, distributed, sold and/or offered for sale by Modern Marketing before the Effective Date.

4.2 Modern Marketing's Release of Leeman

Modern Marketing, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Leeman and her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Leeman and her 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. Modern

Marketing acknowledges that it is familiar with Section 1542 of the California 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.

Modern Marketing 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 Section 1542 of the California Civil Code, 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. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

5. SEVERABILITY

If 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.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this Settlement Agreement are rendered inapplicable or are no longer required as a result of any such repeal or preemption, or rendered inapplicable by reason of law generally as to the Products, then Modern Marketing shall provide written notice to Leeman 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 Products are so affected. Nothing in this Settlement Agreement shall be interpreted to relieve Modern Marketing from any obligation to comply with any pertinent state or federal law, including all toxic control laws.

7. NOTICES

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

To Defendant Modern Marketing Concepts,
Inc.:

James Lemastus, President
Modern Marketing Concepts, Inc.
1220 East Oak Street
Louisville, KY 40204

To Plaintiff Whitney R. Leeman:

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

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

8. COUNTERPARTS; FACSIMILE AND SIGNATURES

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

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

Leeman and her attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code section 25249.7(f).

10. MODIFICATION

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

11. 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: 6/19/14

Date: _____

By: Whitney R. Leeman
Whitney R. Leeman

By: _____
James Lemastus, President
Modern Marketing Concepts, Inc.

11. 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.

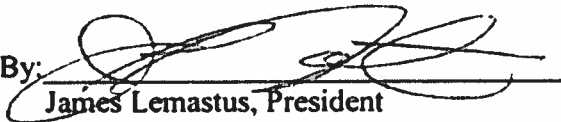
AGREED TO:

Date: _____

By: _____
Whitney R. Leeman

AGREED TO:

Date: 6/2/2014 _____

By:  _____
James Lemastus, President
Modern Marketing Concepts, Inc.