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9 Attorneys for Plaintiff  
10 PAUL WOZNIAK

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF ALAMEDA  
14 UNLIMITED CIVIL JURISDICTION

15 PAUL WOZNIAK,

16 Plaintiff,

17 v.

18 COLUMBIAN HOME PRODUCTS, LLC; and  
19 DOES 1-150, inclusive,

20 Defendants.

Case No. RG14740412

**[PROPOSED] CONSENT JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1 PAUL WOZNIAK and COLUMBIAN HOME PRODUCTS, LLC**

3 This Consent Judgment is entered into by and between PAUL WOZNIAK, (“Wozniak”)  
4 and COLUMBIAN HOME PRODUCTS, LLC (“Columbian Home”), with Wozniak and  
5 Columbian Home collectively referred to as the “Parties” and each individually referred to as a  
6 “Party.”

7 **1.2 Plaintiff**

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

11 **1.3 Defendant**

12 Columbian Home employs ten or more persons and is a person in the course of doing  
13 business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California  
14 Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

15 **1.4 General Allegations**

16 Wozniak alleges that Columbian Home manufactures, distributes, sells, and/or offers for  
17 sale in California vinyl/PVC canning tool grips containing di(2-ethylhexyl)phthalate (“DEHP”)  
18 without the requisite Proposition 65 health hazard warning. DEHP is listed pursuant to  
19 Proposition 65 as a chemical known to California to cause birth defects and other reproductive  
20 harm if human exposure exceeds certain thresholds.

21 **1.5 Product Description**

22 The products that are covered by this Consent Judgment are defined as vinyl/PVC canning  
23 tool grips containing DEHP including, but not limited to, the *Granite-Ware 5-Piece Canning Tool*  
24 *Set (Jar Wrench), #0720 (#0 72495 00720 8)*, which were manufactured, distributed, sold and/or  
25 offered for sale in California by Columbian Home, hereinafter referred to as the “Products.”

26 **1.6 Notice of Violation**

27 On or about February 7, 2014, Wozniak served Columbian Home and various public  
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1 enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”), alleging  
2 that Columbian Home was in violation of Proposition 65 for failing to warn its customers and  
3 consumers in California that the Products exposed users to DEHP. To the best of the Parties’  
4 knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set  
5 forth in the Notice.

6 **1.7 Complaint**

7 On or about September 12, 2014, Wozniak, who was and is acting in the interest of the  
8 general public in California, filed a complaint (“Complaint” or “Action”) in the Superior Court in  
9 and for the County of Alameda against Columbian Home Products, LLC and Does 1 through 150,  
10 alleging, *inter alia*, violations of Proposition 65 based on the alleged exposures to DEHP  
11 contained in the Products sold by Columbian Home in the State of California.

12 **1.8 No Admission**

13 Columbian Home denies the material, factual, and legal allegations contained in the  
14 Notice and Complaint and maintains that all of the products it has manufactured, distributed, sold  
15 and/or offered for sale in California, including the Products, have been, and are, in compliance  
16 with all laws. Nothing in this Consent Judgment shall be construed as an admission by  
17 Columbian Home of any fact, finding, conclusion of law, issue of law, or violation of law; nor  
18 shall compliance with this Consent Judgment constitute or be construed as an admission by  
19 Columbian Home of any fact, finding, conclusion of law, issue of law, or violation of law, such  
20 being specifically denied by Columbian Home. This Section shall not, however, diminish or  
21 otherwise affect Columbian Home’s obligations, responsibilities, and duties under this Consent  
22 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 Columbian Home as to the allegations contained in the Complaint, that venue is  
26 proper in the County of Alameda, and that this Court has jurisdiction to enter and enforce the  
27 provisions of this Consent Judgment.  
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**1.10 Effective Date**

For purposes of this Consent Judgment, the term “Effective Date” shall mean the date this Consent Judgment is approved by the Court.

**2. INJUNCTIVE RELIEF: REFORMULATION**

**2.1 Reformulation Standards and Commitment**

Commencing on the Effective Date and continuing thereafter, Columbian Home shall only manufacture, distribute, ship, sell, or offer to ship for sale in California Products that are “Reformulated Products.” For purposes of this Consent Judgment, “Reformulated Products” shall mean Products that 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, or equivalent methodologies utilized by state or federal agencies for the purpose of determining DEHP content in a solid substance. For purposes of this Consent Judgment, “Accessible Components” shall mean a component 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 the claims referred to in this Consent Judgment, Columbian Home shall pay a total of \$10,000 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 Wozniak, as follows:

**3.1 Initial Civil Penalty**

Columbian Home shall pay an initial civil penalty of \$4,000 on or before December 1, 2014. Columbian Home shall issue a check in the amount of \$4,000 to “Adams Nye Becht LLP” to be held in trust for OEHHA and Wozniak. Adams Nye Becht LLP shall provide The Chanler Group with written confirmation within five (5) days of receipt that the funds have been deposited in a trust account. Within two (2) days of the Effective Date, Adams Nye Becht LLP shall issue two separate checks for the initial civil penalty payment to: (a) “OEHHA” in the

1 amount of \$3,000; and (b) "Paul Wozniak, Client Trust Account" in the amount of \$1,000.

2 **3.2 Final Civil Penalty**

3 Columbian Home shall pay a final civil penalty of \$6,000 on or before March 15, 2015,  
4 the final civil penalty shall be waived in its entirety, however, if, no later than March 1, 2015, an  
5 officer of Columbian Home provides Wozniak with written certification that, as of the date of  
6 such certification and continuing into the future, Columbian Home has met the reformulation  
7 standard specified in Section 2.1 above, such that all Products manufactured, distributed, shipped,  
8 sold and/or offered to ship for sale in California by Columbian Home are Reformulated Products.  
9 The certification in lieu of a final civil penalty payment provided by this Section is a material  
10 term, and time is of the essence. If Columbian Home fails to make the written certification by  
11 March 1, 2015, Columbian Home shall issue two separate checks for its final civil penalty  
12 payments to: (a) "OEHHA" in the amount of \$4,500; and (b) "Paul Wozniak, Client Trust  
13 Account" in the amount of \$1,500.

14 **3.3 Payment Procedures**

15 **3.3.1 Issuance of Payments.** Payments shall be delivered as follows:

16 (a) All payments owed to Wozniak, pursuant to Sections 3.1 and 3.2, shall  
17 be delivered to the following payment address:

18 The Chanler Group  
19 Attn: Proposition 65 Controller  
20 2560 Ninth Street  
21 Parker Plaza, Suite 214  
22 Berkeley, CA 94710

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

25 For United States Postal Service Delivery:

26 Mike Gyurics  
27 Fiscal Operations Branch Chief  
28 Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, CA 95812-4010

1  
2 For Non-United States Postal Service Delivery:

3 Mike Gyurics  
4 Fiscal Operations Branch Chief  
5 Office of Environmental Health Hazard Assessment  
6 1001 I Street  
7 Sacramento, CA 95814

8 With a copy of the checks payable to OEHHA mailed to The Chanler Group at the address  
9 set forth above in 3.3.1(a), as proof of payment to OEHHA.

10 **4. REIMBURSEMENT OF FEES AND COSTS**

11 The Parties acknowledge that Wozniak and his counsel offered to resolve this dispute  
12 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
13 this fee issue to be resolved after the material terms of the agreement had been settled. Wozniak  
14 then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms  
15 had been finalized. The Parties then attempted to (and did) reach an accord on the compensation  
16 due to Wozniak and his counsel under general contract principles and the private attorney general  
17 doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through  
18 the mutual execution of this agreement. Columbian Home shall pay \$31,000 for fees and costs  
19 incurred as a result of investigating, bringing this matter to Columbian Home's attention, and  
20 negotiating a settlement in the public interest. Columbian Home shall issue a check payable to  
21 "Adams Nye Becht LLP" in the amount of \$31,000 on or before December 1, 2014. Adams Nye  
22 Becht LLP shall provide The Chanler Group with written confirmation within five (5) days of  
23 receipt that the funds have been deposited in a trust account. Within two (2) days of the Effective  
24 Date, Adams Nye Becht LLP shall issue a check payable to "The Chanler Group" to the address  
25 listed in Section 3.3.1(a) above.

26 **5. CLAIMS COVERED AND RELEASED**

27 **5.1 Wozniak's Public Release of Proposition 65 Claims**

28 Wozniak acting on his own behalf and in the public interest releases Columbian Home, its  
parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,

1 employees, attorneys, and each entity to whom Columbian Home directly or indirectly distributes  
2 or sells Products, including but not limited to downstream distributors, wholesalers, customers,  
3 retailers, franchisees, cooperative members, licensors, and licensees (“Releasees”) from all claims  
4 for violations of Proposition 65 up through the Effective Date based on exposure to DEHP from  
5 the Products. Compliance with the terms of this Consent Judgment constitutes compliance with  
6 Proposition 65 with respect to exposures to DEHP from the Products.

7 **5.2 Wozniak’s Individual Release of Claims**

8 Wozniak also, in his individual capacity only and *not* in his representative capacity,  
9 provides a release herein which shall be effective as a full and final accord and satisfaction, as a  
10 bar to all actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses,  
11 claims, liabilities and demands of Wozniak of any nature, character or kind, whether known or  
12 unknown, suspected or unsuspected, limited to and arising out of any violation of Proposition 65  
13 regarding the failure to warn about exposure to DEHP in the Products manufactured, distributed,  
14 sold and/or offered for sale by Releasees.

15 **5.3 Columbian Home’s Release of Wozniak**

16 Columbian Home on behalf of itself, its past and current agents, representatives, attorneys,  
17 successors, and/or assignees, hereby waives any and all claims against Wozniak, his attorneys and  
18 other representatives, for any and all actions taken or statements made (or those that could have  
19 been taken or made) by Wozniak and his attorneys and other representatives, whether in the  
20 course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this  
21 matter with respect to the Products.

22 **6. COURT APPROVAL**

23 This Consent Judgment is not effective until it is approved and entered by the Court and  
24 shall be null and void if, for any reason, it is not approved and entered by the Court within one  
25 year after it has been fully executed by all Parties, in which event any monies that have been  
26 provided to Wozniak or his counsel pursuant to Section 3 and 4 above, shall be refunded within  
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1 fifteen (15) days after receiving written notice from Columbian Home that the one-year period  
2 has expired.

3 **7. SEVERABILITY**

4 If, subsequent to the execution of this Consent Judgment, any provision is held by a court  
5 to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely  
6 affected.

7 **8. GOVERNING LAW**

8 The terms of this Consent Judgment shall be governed by the laws of California and apply  
9 within California. In the event that Proposition 65 is repealed or is otherwise rendered  
10 inapplicable by reason of law generally, or as to the Products, then Columbian Home may provide  
11 written notice to Wozniak of any asserted change in the law, and shall have no further obligations  
12 pursuant to this Consent Judgment with respect to, and to the extent that, the Products are so  
13 affected.

14 **9. NOTICES**

15 Unless specified herein, all correspondence and notices required to be provided pursuant  
16 to this Consent Judgment shall be sent by: (i) personal delivery; (ii) first-class, registered or  
17 certified mail, return receipt requested; or (iii) overnight courier on any Party by the other Party at  
18 the following addresses:

19 To Columbian Home:

20 Dick Ryan, President  
21 COLUMBIAN HOME PRODUCTS, LLC  
22 404 North Rand Road  
23 North Barrington, IL 60010

To Wozniak:

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

24 With a copy to:

25 Barbara Adams, Esq.  
26 Adams Nye Becht LLP  
27 222 Kearny Street, Seventh Floor  
28 San Francisco, CA 60010

1  
2 Any Party may, from time to time, specify in writing to the other Party a change of  
3 address to which all notices and other communications shall be sent.

4 **10. COUNTERPARTS; FACSIMILE SIGNATURES**

5 This Consent Judgment may be executed in counterparts and by facsimile or portable  
6 document format (".pdf") signature, each of which shall be deemed an original, and all of which,  
7 when taken together, shall constitute one and the same document. A facsimile or .pdf signature  
8 shall be as valid as the original.

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

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

12 **12. ADDITIONAL POST EXECUTION ACTIVITIES**

13 The Parties agree to mutually employ their, and their counsel's, reasonable best efforts to  
14 support the entry of this agreement as a Consent Judgment and obtain approval of the Consent  
15 Judgment by the Court in a timely manner. The Parties acknowledge that, pursuant to California  
16 Health & Safety Code § 25249.7, a noticed motion is required to obtain judicial approval of this  
17 Consent Judgment, which Wozniak shall file, and which Columbian Home shall not oppose. If  
18 any third party objection to the noticed motion is filed, Wozniak and Columbian Home shall  
19 work together to file a joint reply and appear at any hearing before the Court. If the Court does  
20 not approve the motion to approve this Consent Judgment, and the Parties choose not to pursue a  
21 modified Consent Judgment within 30 days of said denial, or in the event that the Court approves  
22 this Consent Judgment and any person successfully appeals that approval, all payments made  
23 pursuant to this Consent Judgment will be returned to Columbian Home within fifteen (15) days  
24 of an order reversing or vacating the approval.

25 **13. MODIFICATION**

26 This Consent Judgment may be modified only: (1) by written agreement of the Parties and  
27 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion  
28 of any Party and entry of a modified Consent Judgment by the Court.

1 **14. ENTIRE AGREEMENT**

2 This Consent Judgment contains the sole and entire agreement and understanding of the  
3 Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
4 negotiations, commitments, and understandings related hereto. No representations, oral or  
5 otherwise, express or implied, other than those contained herein have been made by any Party  
6 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be  
7 deemed to exist or to bind any of the Parties.

8 **15. AUTHORIZATION**

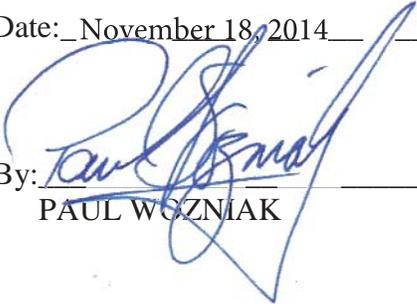
9 The undersigned are authorized to execute this Consent Judgment on behalf of their  
10 respective parties and have read, understood, and agree to all of the terms and conditions of this  
11 Consent Judgment.

12 **AGREED TO:**

**AGREED TO:**

13  
14 Date: November 18, 2014

Date: \_\_\_\_\_

15  
16 By:  \_\_\_\_\_  
17 PAUL WOZNIAK

18 By: \_\_\_\_\_  
19 Dick Ryan, President  
20 COLUMBIAN HOME PRODUCTS,  
21 LLC

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7 deemed to exist or to bind any of the Parties.

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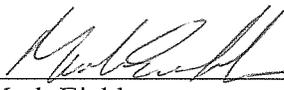
12 **AGREED TO:**

**AGREED TO:**

13 Date: \_\_\_\_\_

Date: NOVEMBER 26, 2014

14 By: \_\_\_\_\_  
15 PAUL WOZNIAK

16 By:   
17 Mark Eichhorn  
18 President and CEO  
19 COLUMBIAN HOME PRODUCTS,  
20 LLC