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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA
11 UNLIMITED CIVIL JURISDICTION
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15 PAUL WOZNIAK,

16 Plaintiff,

17 v.

18 JOHN N. HANSEN CO., INC., *et al.*

19 Defendants.
20

Case No.: RG14732195

[PROPOSED] CONSENT JUDGMENT

(Health & Safety Code § 25249.6 *et seq.* and
Cal. Civ. Proc. Code § 664.6)

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between Paul Wozniak (“Wozniak”) and John
4 N. Hansen Co., Inc. (“John Hansen”), with Wozniak and John Hansen each individually referred to as
5 a “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

7 Wozniak is an individual residing in California who seeks to promote awareness of exposures
8 to toxic chemicals and improve human health by reducing or eliminating hazardous substances
9 contained in consumer products, who has brought this action and is settling this action “in the public
10 interest” pursuant to California Health and Safety Code § 25249.7(d) and Title 11, California Code of
11 Regulations, §§ 3000 *et seq.*

12 **1.3 Defendant**

13 John Hansen employs ten or more individuals and is a “person in the course of doing
14 business” for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and
15 Safety Code section 25249.6 *et seq.* (“Proposition 65”).

16 **1.4 General Allegations**

17 Wozniak alleges that John Hansen manufactures, imports, sells, or distributes for sale in
18 California, vinyl/PVC game cases that contain di(2-ethylhexyl)phthalate (“DEHP”) without first
19 providing the exposure warning required by Proposition 65. DEHP is listed pursuant to Proposition
20 65 as a chemical known to the State of California to cause birth defects or other reproductive harm.

21 **1.5 Product Description**

22 The products that are covered by this Settlement Agreement are vinyl/PVC game cases
23 containing DEHP that are manufactured, sold or distributed for sale in California by John Hansen
24 including, but not limited to, the *Deluxe Double 15 Dominoes Set of 136 Even Dots*, ISBN# 1-57846-
25 100-6, UPC #0 25766 05615 3 (collectively, “Covered Products”).

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1 **1.6 Notice of Violation**

2 On March 26, 2014, Wozniak served John Hansen, the California Attorney General, and the
3 other requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”) alleging
4 that John Hansen violated Proposition 65 when it failed to warn its employees, its customers and
5 consumers in California that the Products expose users to DEHP. To the best of the Parties’
6 knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce the
7 violations alleged in the Notice.

8 **1.7 Complaint**

9 On July 9, 2014, Wozniak filed the instant action (“Complaint”), naming John Hansen as a
10 defendant for the alleged violations of Health and Safety Code section 25249.6 that are the subject of
11 the Notice.

12 **1.8 No Admission**

13 John Hansen denies the material, factual, and legal allegations contained in the Notice and
14 Complaint, and it maintains that all of the products that it has sold and distributed for sale in
15 California, including the Products, have been, and are, in compliance with all laws. Nothing in this
16 Consent Judgment shall be construed as an admission by John Hansen of any fact, finding,
17 conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent Judgment
18 constitute or be construed as an admission by John Hansen of any fact, finding, conclusion of law,
19 issue of law, or violation of law, the same being denied by John Hansen. Nothing in this Consent
20 Judgment shall prejudice, waive or impair any right, remedy, argument or defense John Hansen may
21 have in this or any other future legal proceedings. This Consent Judgment is the product of
22 negotiation and compromise and is accepted by John Hansen for the purposes of settling,
23 compromising, and resolving issues disputed in this action. However, this Section shall not diminish
24 or otherwise affect John Hansen’s obligations, responsibilities, and duties under this Consent
25 Judgment.

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1 **1.9 Jurisdiction**

2 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
3 jurisdiction over John Hansen as to the allegations in the Complaint, that venue is proper in the
4 County of Alameda, and that this Court has jurisdiction to enter and enforce the provisions of this
5 Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

6 **1.10 Effective Date**

7 For purposes of this Consent Judgment, the term “Effective Date” shall mean the date the
8 Court grants the motion for approval of this Consent Judgment contemplated by Section 10.

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

10 **2.1 Reformulation/Compliance Standard**

11 Commencing on the Effective Date and continuing thereafter, John Hansen shall only sell, or
12 distribute for sale in California, Products that are either: (a) “Compliant Products”; or (b) Products that
13 contain a clear and reasonable warning pursuant to Section 2.2. For purposes of this Consent Judgment,
14 the term “Compliant Products” shall refer to Products containing a maximum of 1,000 ppm (0.1%)
15 DEHP content in any component analyzed pursuant to EPA testing methodologies 3580A and 8270C,
16 or equivalent methodologies used by state or federal agencies for purposes of determining DEHP
17 content in a solid substance.

18 **2.2 Clear and Reasonable Warnings**

19 Commencing on the Effective Date and continuing thereafter, for all Products that are not
20 Compliant Products, John Hansen agrees that it will only sell or distribute such Products for sale in
21 California with a clear and reasonable warning pursuant to this Section. John Hansen further agrees
22 that the warning will be prominently placed with such conspicuousness when compared with other
23 words, statements, designs, or devices as to render it likely to be read and understood by an ordinary
24 individual under customary conditions before purchase or use. For purposes of this Consent
25 Judgment, a clear and reasonable warning shall consist of a warning affixed to the packaging, label,
26 tag, or directly to a Product sold in California and contain the following statement:

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

1 **3. MONETARY SETTLEMENT TERMS**

2 **3.1 Civil Penalty Payments**

3 Pursuant to Health & Safety Code § 25249.7(b), in settlement of all the claims referred to in
4 this Consent Judgment, John Hansen shall pay \$7,500 in civil penalties. Each civil penalty payment
5 shall be allocated according to Health and Safety Code section 25249.12(c)(1) and (d) with seventy-
6 five percent (75%) of the penalty amount paid to the California Office of Environmental Health
7 Hazard Assessment (“OEHHA”) and twenty-five percent (25%) paid to Wozniak.

8 **3.1.1 Initial Civil Penalty**

9 Within five days of the Effective Date, John Hansen shall make an initial civil penalty
10 payment of \$2,500. John Hansen shall provide its payment in a single check made payable to “Paul
11 Wozniak, Client Trust Account” in the amount of \$2,500.

12 **3.1.2 Final Civil Penalty**

13 On December 31, 2015, John Hansen shall make a final civil penalty payment of
14 \$5,000. Pursuant to title 11 California Code of Regulations, section 3203(c), Wozniak agrees that the
15 final civil penalty payment shall be waived in its entirety if, no later than December 15, 2015, an
16 officer of John Hansen provides Wozniak with written certification that, as of the date of its
17 certification, all of the Products it purchases for sale or manufactures for sale in California are
18 Compliant Products as defined by Section 2.1, and that John Hansen will continue to offer only
19 Compliant Products in California in the future. The option to certify reformulation/compliance in
20 lieu of making the final civil penalty payment required by this Section is a material term, and with
21 regard to such term, time is of the essence.

22 **3.2 Reimbursement of Fees and Costs**

23 The parties acknowledge that they discussed the option of reaching terms on the amount of
24 fees and costs to be reimbursed to them, thereby leaving the issue to be resolved after the material
25 terms of the Consent Judgment were settled. The Parties then opted to and did negotiate John
26 Hansen’s reimbursement of the compensation due to Wozniak and his counsel under general contract
27 principles and the private attorney general doctrine codified at California Code of Civil Procedure
28 section 1021.5. John Hansen shall pay \$27,000 as reimbursement for all fees and costs incurred by

1 Wozniak investigating, bringing this matter to the John Hansen’s attention, negotiating a settlement
2 in the public interest, and obtaining the Court’s approval of this Consent Judgment in the public
3 interest. John Hansen’s payment under this Section shall be tendered in two separate checks made
4 payable to “The Chanler Group,” each in the amount of \$13,500. The first fee reimbursement
5 payment is due within five days of the Effective Date. The second, and final, fee reimbursement
6 installment is due on or before February 1, 2016.

7 **3.3 Payment Procedures**

8 All payments made under this Consent Judgment shall be delivered to:

9 The Chanler Group
10 Attn: Proposition 65 Controller
11 2560 Ninth Street
12 Parker Plaza, Suite 214
13 Berkeley, CA 94710

12 **4. CLAIMS COVERED AND RELEASED**

13 **4.1 Wozniak’s Public Interest Release of Hansen**

14 Wozniak, acting on behalf of himself and in the public interest, as well as on behalf of his
15 past and current agents, representatives, attorneys, successors, and/or assignees, releases John
16 Hansen and its parents, subsidiaries, affiliated entities under common ownership or control,
17 directors, officers, employees, and attorneys (“Releasees”) and each entity to whom John Hansen
18 directly or indirectly distributes or sells the Products, including but not limited to its downstream
19 distributors, wholesalers, customers, and retailers (“Downstream Releasees”), from all claims for
20 violations arising under Proposition 65 based upon exposures to DEHP from the Covered Products
21 sold or distributed for sale by John Hansen prior to the Effective Date, as alleged in the Notice
22 and/or Complaint. This release includes all claims based upon Proposition 65 violations related to
23 occupational and/or consumer products exposures to DEHP, as alleged in the Notice. Compliance
24 with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to
25 the failure to warn about exposures to DEHP in the Products.

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1 **4.2 Wozniak’s Individual Release of John Hansen**

2 Wozniak , on his own behalf and on behalf of his past and current agents, representatives,
3 attorneys, successors, and/or assignees, also provides a release in his individual capacity to John
4 Hansen, Releases, and Downstream Releases which shall be effective as a full and final accord and
5 satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys’ fees,
6 damages, losses, claims, liabilities, and demands of Wozniak of any nature, character or kind,
7 whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to
8 DEHP in Products sold or distributed for sale by John Hansen before the Effective Date. This release
9 includes all claims based upon Proposition 65 violations related to occupational and/or consumer
10 products exposures to DEHP, as alleged in the Notice. Compliance with the terms of this Consent
11 Judgment constitutes compliance with Proposition 65 with respect to the failure to warn about
12 exposures to DEHP in the Products.

13 **4.3 John Hansen’s Release of Wozniak**

14 John Hansen on its own behalf and on behalf of its past and current agents, representatives,
15 attorneys, successors, and assignees, hereby waives any and all claims against Wozniak and his
16 attorneys and other representatives, for any and all actions taken or statements made by Wozniak and
17 his attorneys and other representatives, whether in the course of investigating or seeking to enforce
18 Proposition 65 against it in this matter, with respect to the Covered Products.

19 **5. COURT APPROVAL**

20 This Consent Judgment is not effective until it is approved and entered by the Court and shall
21 be null and void if, for any reason, it is not approved and entered by the Court within one year after it
22 has been fully executed by the Parties.

23 **6. SEVERABILITY**

24 If, subsequent to the Court’s approval and entry of this Consent Judgment as a judgment, any
25 provision is held by a court to be unenforceable, the validity of the remaining provisions shall not be
26 adversely affected.

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1 **7. GOVERNING LAW**

2 The terms of this Settlement Agreement shall be governed by the laws of the State of
3 California and apply within the State of California. In the event that Proposition 65 is repealed or is
4 otherwise rendered inapplicable by reason of law generally, or as to the Products, then John Hansen
5 may provide written notice to Wozniak of any asserted change in the law, and shall have no further
6 obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products
7 are so affected. Nothing in this Consent Judgment shall be interpreted to relieve John Hansen from
8 any obligation to comply with any pertinent state or federal toxics control laws.

9 **8. NOTICE**

10 Unless specified herein, all correspondence and notices required to be provided pursuant to
11 this Consent Judgment shall be in writing and sent by: (a) personal delivery; (b) first-class, registered
12 or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the
13 other at the following addresses:

14 For John Hansen:

15 John Hansen, Jr., President
16 John N. Hansen Co., Inc.
17 369 Adrian Road
18 Millbrae, CA 94030

18 with a copy to:

19 Kevin Barger, Esq.
20 Dehay & Elliston LLP
21 1111 Broadway, Suite 1950
22 Oakland, CA 94607

21 For Wozniak:

22 The Chanler Group
23 Attn: Proposition 65 Coordinator
24 2560 Ninth Street
25 Parker Plaza, Suite 214
26 Berkeley, CA 94710

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

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1 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

2 This Consent Judgment may be executed in counterparts and by facsimile or portable
3 document format (PDF) signature, each of which shall be deemed an original, and all of which, when
4 taken together, shall constitute one and the same document.

5 **10. POST EXECUTION ACTIVITIES**

6 Wozniak agrees to comply with the reporting form requirements referenced in Health and
7 Safety Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety
8 Code section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement. In
9 furtherance of obtaining such approval, Wozniak and John Hansen agree to mutually employ their
10 best efforts, and that of their counsel, to support the entry of this agreement as judgment, and to
11 obtain judicial approval of their settlement in a timely manner. For purposes of this Section, "best
12 efforts" shall include, at a minimum, cooperating with the drafting and filing of the necessary moving
13 papers, and supporting the motion for judicial approval. Each Party shall bear his/its own cost and
14 expense in connection with the Parties' efforts to obtain judicial approval of this settlement.

15 **11. MODIFICATION**

16 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and
17 entry of a modified consent judgment by the Court; or (ii) a successful motion or application of any
18 Party, and the entry of a modified consent judgment by the Court.

19 **12. AUTHORIZATION**

20 The undersigned are authorized to execute this Consent Judgment and have read, understood,
21 and agree to all of the terms and conditions contained herein.

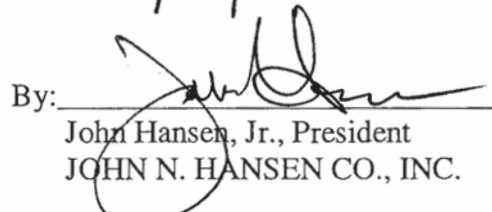
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23 **AGREED TO:**

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25 Date: June 19, 2015

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27 By: 
28 PAUL WOZNIAK.

AGREED TO:

Date: 6/17/15

By: 
John Hansen, Jr., President
JOHN N. HANSEN CO., INC.