

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

ROSS STORES, INC.

1.0 INTRODUCTION

1.1 This Settlement Agreement is entered into by and between Consumer Advocacy Group, Inc. (referred to as "CAG) and Ross Stores, Inc. and Ross Dress for Less, Inc. ("Ross")¹ (each a "Party", collectively referred to as, the "Parties").

1.2 CAG is a California corporation that serves as a private enforcer of Proposition 65, as described in Proposition 65 and the regulations of the Attorney General of California at 11 Cal. Code Regs. § 3000 *et seq.*

1.3 Ross employs ten or more persons, 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 §§ 25249.6 *et seq.* ("Proposition 65"), and distributes and sells Beer Bong^s directly or indirectly supplied to Ross by Head Rush Products, Inc.

1.4 **Notice of Violation.** On April 14, 2014, CAG served Ross, Head Rush Products, Inc. and various public enforcement agencies with a document entitled "60-Day Notice of Violation" that provided the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP contained in the Beer Bong^s it sells, including but not limited to "Head Rush "Beer Bong" "The Ultimate Funnel & Tube", "Liven Up The Party!!",

¹ Ross Dress for Less, Inc. is a wholly-owned subsidiary of Ross Stores, Inc., which operates the Ross and dd's DISCOUNTS stores.

MM
JM

“Chug-A-Lug” (herein the “Notice”). No public enforcer has commenced or diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

This Settlement Agreement resolves claims that are denied and disputed. The Parties enter into this Settlement Agreement pursuant to a full and final settlement of any and all claims between the parties for the purpose of avoiding prolonged litigation. This Settlement Agreement shall not constitute an admission with respect to any material allegation of the Notice, nor may this Settlement Agreement or compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of Ross.

2.0 DEFINITIONS

2.1 “Covered Product” means Beer Bongs directly or indirectly supplied to Ross by Head Rush Products, Inc., including but not limited to “Head Rush “Beer Bong” “The Ultimate Funnel & Tube”, “Liven Up The Party!!”, “Chug-A-Lug.” Covered Products are limited to only those sold by Head Rush Products, Inc.

2.2 “Effective Date” means the date that this Settlement Agreement is fully executed by all Parties hereto.

3.0 INJUNCTIVE RELIEF/REFORMULATION

3.1 As of the Effective Date, Ross shall not sell or offer for sale in the State of California any Covered Product that contains DEHP in concentrations of more than 1000 parts per million by weight in any component.

4.0 SETTLEMENT PAYMENTS

4.1 Within 10 business days of the Effective Date or receipt of Forms W-9 from CAG, whichever is later, Ross shall pay a total of \$34,000 as complete settlement of all monetary claims by CAG related to the Notice, as follows.

MM
JM

4.2 Payment In Lieu of Civil Penalties: Ross shall pay \$3,000 in lieu of civil penalties to "Consumer Advocacy Group, Inc." CAG will use this payment for investigation of the public's exposure to Proposition 65 listed chemicals through various means, laboratory fees for testing for Proposition 65 listed chemicals, expert fees for evaluating exposures through various mediums, including but not limited to consumer product, occupational, and environmental exposures to Proposition 65 listed chemicals, and the cost of hiring consulting and retained experts who assist with the extensive scientific analysis necessary for those files in litigation, in order to reduce the public's exposure to Proposition 65 listed chemicals by notifying those persons and/or entities believed to be responsible for such exposures and attempting to persuade those persons and/or entities to reformulate their products or the source of exposure to completely eliminate or lower the level of Proposition 65 listed chemicals, thereby addressing the same public harm as allegedly in the instant Action. Further, should the court require it, CAG will submit under seal, an accounting of these funds as described above as to how the funds were used.

4.3 Reimbursement of Attorney's Fees and Costs: Ross shall pay \$28,000 to "Yeroushalmi & Associates" as reimbursement for the investigation fees and costs, testing costs, expert fees, attorney fees, and other litigation costs and expenses for all work performed through the approval of this Settlement Agreement.

4.4 Civil Penalty: Ross shall issue two separate checks for a total amount of \$3,000 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 \$2,250, representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of \$750 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 \$2,250. The second 1099 shall be issued in the amount of \$3,750 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212

MM
JM

4.5 All payments to CAG and Yeroushalmi & Associates under this Settlement Agreement shall be delivered to: Yeroushalmi & Associates, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212.

5.0 MATTERS COVERED BY THIS SETTLEMENT AGREEMENT

5.1 This Settlement Agreement is a full, final, and binding resolution between CAG on behalf of itself and in the public interest and Ross and its officers, directors, insurers, employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister companies and their successors and assigns ("Defendant Releasees") and all persons and entities who are downstream in the stream of commerce from Ross who sell or distribute the Covered Product ("Downstream Defendant Releasees"), for all claims for violations of Proposition 65 up through the Effective Date based on exposure to DEHP from the Covered Product through the Effective Date. Ross's and Defendant Releasees' compliance with this Settlement Agreement shall constitute compliance with Proposition 65 with respect to DEHP from the Covered Product as set forth in the Notice. This Section 5.1 shall not extend upstream to any entity that manufactured the Covered Product or any component parts thereof, or any distributor or supplier who sold the Covered Product to Ross.

5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, 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) of any nature

MM
SM

whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against Ross, Defendant Releasees, and Downstream Defendant Releasees arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure to DEHP in the Covered Product through the Effective Date. In furtherance of the foregoing, as to alleged exposures to the Covered Product, CAG hereby waives any and all rights and benefits which it now has, or in the future may have, conferred upon it with respect to the Claims by virtue of the provisions of 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 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

CAG understands and acknowledges that the significance and consequence of this waiver of California Civil Code section 1542 is that even if CAG suffers future damages arising out of or resulting from, or related directly or indirectly to, in whole or in part, the Covered Product, including but not limited to any exposure to, or failure to warn with respect to exposure to, DEHP from the Covered Product, CAG will not be able to make any claim for those damages against Ross the Defendant Releasees, or Downstream Defendant Releasees. Furthermore, CAG acknowledges that it intends these consequences for any such Claims as may exist as of the date of this release but which CAG does not know exist, and which, if known, would materially affect their decision to enter into this Settlement Agreement, regardless of whether their lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause. This Section 5.2 shall not extend upstream to any entity that manufactured the Covered Product or any component parts thereof, or any distributor or supplier who sold the Covered Product to Ross.

MM
JM

6.0 ENFORCEMENT OF SETTLEMENT AGREEMENT

6.1 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 6.2 through 6.5 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement.

6.2 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 Ross 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 any Notice(s) of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 6.3 below. Any notice to Ross must contain (a) the name of the Covered Product, (b) specific dates when the Covered Product was sold after the Effective Date in California without reformulation, (c) the store at which the Covered Product was available for sale to consumers, (d) all test data obtained by CAG regarding the Covered Product, and (e) any other evidence or other support for the allegations in the notice.

6.3 Within 30 days of receiving the notice described in Section 6.2, Ross shall either (1) stop selling the product in all California stores, or (2) refute the information provided under Section 6.4.

6.4 Ross may serve a notice informing CAG of its election to contest the notice received from CAG within 30 days of receiving the notice.

(a) In its election, Ross may request that the same sample(s) of Covered Product(s) tested by CAG be subject to confirmatory testing at an accredited laboratory.

(b) If the confirmatory testing establishes that the Covered Product does not contain lead in excess of the level allowed in Section 3.1 CAG

MM
JM

shall take no further action regarding the alleged violation. If the testing does not establish compliance with Section 3.1, Ross may withdraw its notice to contest the violation and stop selling the Covered Product in California.

(c) If Ross does not withdraw the notice to contest CAG's notice, the Parties shall meet and confer for a period of no less than 30 days before CAG may seek an order enforcing the terms of this Settlement Agreement.

6.5 In any proceeding brought by either Party to enforce this Settlement Agreement, the prevailing party shall be entitled to recover its attorney's fees and costs.

7.0 REPORT OF THE SETTLEMENT AGREEMENT TO THE OFFICE OF THE ATTORNEY GENERAL OF CALIFORNIA

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

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 DUTIES LIMITED TO CALIFORNIA

9.1 This Settlement Agreement shall have no effect on Covered Products sold by Ross outside of the State of California.

10.0 ENTIRE AGREEMENT

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

MM
JM

11.0 GOVERNING LAW

11.1 The validity, construction and performance of this Settlement Agreement shall be governed by the laws of the State of California, without reference to any conflicts of law provisions of California law.

11.2 The Parties, including their counsel, have participated in the preparation of this Settlement Agreement and this Settlement Agreement is the result of the joint efforts of the Parties. This Settlement Agreement was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Settlement Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Settlement Agreement. Each Party to this Settlement Agreement agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Settlement Agreement and, in this regard, the Parties hereby waive California Civil Code § 1654.

12.0 SEVERABILITY

12.1 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.

13.0 EXECUTION IN COUNTERPARTS

13.1 This Settlement Agreement may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document.

14.0 NOTICES

14.1 Any notices under this Settlement Agreement shall be by personal delivery of First Class Mail.

MM
Lm

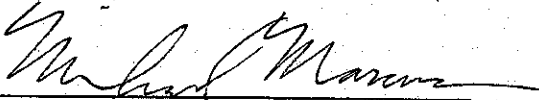
<p>If to CAG:</p> <p>Reuben Yeroushalmi, Esq. Yeroushalmi & Yeroushalmi 9100 Wilshire Boulevard, Suite 240W Beverly Hills, CA 90212 (310) 623-1926</p>	<p>If to Ross:</p> <p>General Counsel Ross Stores, Inc. 4440 Rosewood Drive 5130 Hacienda Drive Pleasanton, CA 94588 Dublin Off. 94528</p> <p>With a copy to:</p> <p>Jeffrey B. Margulies Fulbright & Jaworski LLP 555 South Flower Street 41st Floor Los Angeles, California 90071</p>
--	---

15.0 AUTHORITY TO STIPULATE

15.1 Each signatory to this Settlement Agreement certifies that he or she is fully authorized by the party he or she represents to enter into this Settlement Agreement and to execute it on behalf of the party represented and legally to bind that party.

AGREED TO:

Date: September 29, 2014



Name: Michael Marcus

Title: Director
CONSUMER ADVOCACY GROUP, INC.

AGREED TO:

Date: 9.29.14



Name: Tracy P. Meyer

Title: Corporate Counsel + Senior Director,
ROSS STORES, INC. Product Compliance