

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (“Held”) and Rico Industries, Inc. (“Rico”), with Held and Rico each individually referred to as a “Party” and collectively as the “Parties.” Held is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals, and to improve human health by reducing or eliminating hazardous substances used in consumer products. Rico 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 § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Held alleges that Rico manufactures, sells, and/or distributes for sale in California, wallets with vinyl/PVC identification card holders and inserts that contain the phthalate chemical di(2-ethylhexyl)phthalate (“DEHP”). DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Held alleges that Rico failed to provide the health hazard warning required by Proposition 65 for exposures to DEHP from the wallets with vinyl/PVC identification card holders and inserts sold in California.

1.3 Product Description

The products that are covered by this Settlement Agreement are wallets with vinyl/PVC identification card holders and inserts containing DEHP that are manufactured, sold and/or distributed for sale in California by Rico including, but not limited to, the *NFL Leather Wallet (Identification Card Insert)*, (UPC No. 0 94746 47102 6), (collectively, “Products”).

1.4 Notice of Violation

On June 4, 2014, Held served Rico and certain requisite public enforcement agencies with a "60-Day Notice of Violation" ("Notice") alleging that Rico violated Proposition 65 when it failed to warn its customers and consumers in California that the Products expose users to DEHP. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

Rico denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has manufactured, sold and distributed 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 Rico 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 Rico of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Rico. This Section shall not, however, diminish or otherwise affect Rico'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 October 20, 2014.

2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS

Commencing on the Effective Date and continuing thereafter, Rico shall only purchase for sale or manufacture for sale in California, "Reformulated Products." For purposes of this Settlement Agreement, "Reformulated Products" are Products that contain no more than 1,000 ppm (0.1%) DEHP content in any component analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C, or equivalent methodologies used by state or federal agencies for purposes of determining

DEHP content in a solid substance.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this settlement Rico agrees to pay \$16,000.00 in civil penalties, \$12,000.00 of which may be waived pursuant to Section 3.1.2 of this Settlement Agreement. Each penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Held. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486); and (b) Held. Held will cause a W-9 Form with respect to himself to be provided to Rico Industries or Rico Industries’ counsel within five (5) days of the date that this Settlement Agreement is fully executed by the Parties.

3.1.1 Initial Civil Penalty. Within five days of the Effective Date, Rico shall pay an initial civil penalty of \$4,000.00. Rico will provide its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the amount of \$3,000.00; and (b) “Anthony E. Held, Client Trust Account” in the amount of \$1,000.00.

3.1.2 Final Civil Penalty. On January 15, 2015, Rico shall pay a final civil penalty of \$12,000.00. The final civil penalty shall be waived in its entirety if, no later than January 1, 2015, an officer of Rico provides Held’s counsel with written certification that, as of the date of its certification, all Products all of the Products it ships or distributes for sale in California are Reformulated Products as defined by Section 2, and that it will continue to only offer Reformulated Products in the future. The option to provide a written certification of reformulation in lieu of making the final civil penalty

payment otherwise required by this Agreement is a material term, and time is of the essence.

3.2 Reimbursement of Held's Attorneys' Fees and Costs

The Parties reached an accord on the compensation due to Held and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, within five days of the Effective Date, Rico agrees to pay \$26,500.00 to Held and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of Rico's management, and negotiating a settlement in the public interest.

3.3 Payment Procedures

3.3.1 Payment Addresses. Payments shall be delivered as follows:

(a) All payments and tax documentation required for Held and his counsel under this Settlement Agreement shall be delivered to:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

(b) All payments and tax forms required for OEHHA under this Settlement Agreement 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 Courier or Other Non-U.S. 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 to OEHHA. Rico agrees to provide Held with a copy of each penalty check sent to OEHHA, enclosed with Rico's penalty payment(s) to Held, and delivered to the address provided in Section 3.3.1(a).

4. CLAIMS COVERED AND RELEASED

4.1 Held's Release of Rico/Covenant Not to Sue

This Settlement Agreement is a full, final and binding resolution between Held and Rico, of any violation of Proposition 65 that was or could have been asserted by Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Rico, its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, shareholders, agents, representatives, attorneys, licensors, licensees and each entity to whom Rico directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers, users, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on their failure to warn about alleged exposures to DEHP in Products that Rico manufactured, sold or distributed for sale by Rico prior to the Effective Date.

In further consideration of the promises and agreements herein contained, Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and 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 and in equity, all suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not exclusively limited to, investigation fees, expert fees, and attorneys' fees), of any nature whatsoever, whether known or unknown, fixed or contingent, arising under Proposition 65 with respect to the failure to warn about exposures to DEHP from Products

manufactured, sold or distributed for sale by Rico before the Effective Date. The releases provided by Held under this Settlement Agreement are provided solely on Held's behalf and are not releases on behalf of the public.

4.2 Rico's Release of Held

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

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed 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 and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Rico may provide written notice to Held 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.

7. NOTICE

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

For Rico:

For Held:

Cary Schack, President
Rico Industries, Inc.
7000 North Austin Avenue
Niles, IL 60714

The Chanler Group
Attn: Prop 65 Coordinator
2560 Ninth St.
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

with a copy to:

Steven Bright, Esq.
Vice President Strategic Development, General Counsel
Rico Industries, Inc.
7000 N. Austin
Niles, IL 60714

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

8. COUNTERPARTS; FACSIMILE SIGNATURES

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

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

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

10. MODIFICATION

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

11. ENTIRE AGREEMENT

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.

12. **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: **APPROVED**
By Tony Held at 12:56 pm, Oct 05, 2014

By: *Anthony E. Held*
ANTHONY E. HELD, Ph.D., P.E.

AGREED TO:

Date: 10/3/2014

RICO INDUSTRIES, INC.

By: *Cary Schack*
Name: Cary Schack
Title: President