

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Anthony Held, Ph.D., P.E. (“Held”) and Rosanna Imports, Inc. (“Rosanna”), with Held and Rosanna 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. Held alleges that Rosanna 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 Rosanna manufactures, sells, and/or distributes for sale in California, vinyl/PVC luggage tags with straps containing 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 Rosanna failed to provide the health hazard warning required by Proposition 65 for exposures to DEHP from its vinyl/PVC straps.

1.3 Product Description

The products that are covered by this Settlement Agreement are vinyl/PVC luggage tags with straps containing DEHP that are manufactured, sold or distributed for sale in California by Rosanna, including, but not limited to, the *Luggage Tag Amsterdam, Item Number: 86170, UPC #7 93829 86170 8* (collectively, the “Products”).

1.4 Notice of Violation

On November 25, 2014, Held served Rosanna and the requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that

Rosanna violated Proposition 65 when it failed to warn its customers and consumers in California of the health hazards associated with exposures to DEHP in its Products. 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

Rosanna denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has 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 Rosanna 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 Rosanna of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Rosanna. This Section shall not, however, diminish or otherwise affect Rosanna'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 May 1, 2015.

2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS

2.1 Reformulation Commitment

Commencing within 30 days of the Effective Date and continuing thereafter, Rosanna agrees to only manufacture for sale or purchase for sale in or into California, "Reformulated Products." For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products containing less than or equal to 1,000 parts per million (0.1%) DEHP in any accessible component (i.e., any component that may be touched during use) when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C or equivalent methodologies utilized by federal or state agencies for the purpose 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 Agreement, within 30 business days of the Effective Date, Rosanna agrees to pay \$2,000 in civil penalties. Rosanna shall deliver its payment in a check made payable to “Anthony Held, Client Trust Account.” The civil 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. Held’s counsel shall be responsible for delivering OEHHA’s portion of any penalty payment(s) made under this Settlement Agreement to OEHHA.

3.2 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 thirty business days of the Effective Date, Rosanna agrees to pay \$16,000 in the form of a check made payable to “The Chanler Group” for all fees and costs incurred investigating, bringing this matter to the attention of Rosanna’s management, and negotiating a settlement in the public interest.

3.3 Payment Address

All payments 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

4. CLAIMS COVERED AND RELEASED

4.1 Held's Release of Rosanna

This Settlement Agreement is a full, final and binding resolution between Held and Rosanna, of any violation of Proposition 65 that was or could have been asserted by Held, on his own behalf or on behalf of his past and current agents, representatives, attorneys, successors, and assigns, against Rosanna and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Rosanna directly or indirectly distributes or sells Products, including its downstream distributors, wholesalers, customers (including, without limitation, The Neiman Marcus Group LLC), retailers, franchisees, cooperative members, licensors, and licensees ("Releasees"), based on the alleged failure to warn about exposures to DEHP in Products manufactured, distributed, sold or offered for sale by Rosanna before the Effective Date.

In further consideration of the promises and agreements herein contained, Held, on his own behalf and on behalf of his past and current agents, representatives, attorneys, successors, and assigns, hereby waives any right 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 and in equity, all suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees, arising under Proposition 65 with respect to exposures to DEHP from Products sold or distributed for sale by Rosanna before the Effective Date.

4.2 Rosanna's Release of Held

Rosanna, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assigns, hereby waives any and all claims against Held and his attorneys and other representatives, for any and all actions taken or statements made by Held and his attorneys and other representatives, whether in the

course of investigating claims, 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 provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions 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 Rosanna 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 notice 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 Rosanna:

Rosanna Bowles, President
Rosanna Imports, Inc.
6755 East Marginal Way S
Seattle, WA 98108

For Held:

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

with a copy to Rosanna's counsel:

Steven L. Feldman, Esq.
Goldfarb, Sturman & Averbach
15760 Ventura Blvd., Suite #1900
Encino, CA 91436

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. POST-EXECUTION ACTIVITIES

Held and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f). The Parties acknowledge that the California Attorney General has 30 days in which to object to this Settlement Agreement following Plaintiff's reporting of the same. To that end, the Parties agree and understand that should the Attorney General's Office object to all or any portion of this Settlement Agreement, the Parties will work together and use their best efforts, and those of their counsel, to address the objection to the satisfaction of both the Parties and the Office of the Attorney General. Should the Parties be unable to revise their agreement to their mutual satisfaction and to the satisfaction of the Office of the Attorney General, then this private enforcement action shall return to the status quo, as it existed prior to execution by the Parties.

10. MODIFICATION

This Settlement Agreement may be modified only by 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: May 8, 2015

Date: May 7, 2015

By: 

ANTHONY HELD, PH.D., P.E.

By: 

Rosanna Bowles, President
ROSANNA IMPORTS, INC.