

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Commonwealth Soap & Toiletries, Inc. (“Commonwealth”) and Whitney R. Leeman, Ph.D. (“Leeman”), with Leeman and Commonwealth each referred to individually as a “Party” and collectively as the “Parties.” Leeman is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Commonwealth 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

Leeman alleges that Commonwealth has manufactured, distributed and/or sold in the State of California vinyl/PVC toiletry bags containing di(2-ethylhexyl)phthalate (“DEHP”) without providing the requisite Proposition 65 health hazard warning. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects or other reproductive harm. Commonwealth denies Leeman’s claims and maintains that Proposition 65 warnings are not required for the Products (as hereinafter defined).

1.3 Product Description

The “Products” that are covered by this Settlement Agreement are vinyl/PVC toiletry bags containing DEHP, including, but not limited to, *Simply Be Well Travel Kit Rosemary Mint*, #032418, UPC #7 22030 68570 4, manufactured, imported, sold, and/or distributed for sale in the State of California by Commonwealth.

1.4 Notice of Violation

On or about January 23, 2015, Leeman served Commonwealth and various public enforcement agencies with a “60-Day Notice of Violation” (the “Notice”) that provided the recipients with notice of alleged violations of Proposition 65 based on Commonwealth’s failure to

warn consumers that the Products exposed users in the State of California to DEHP. To the best of the Parties' knowledge, no public enforcer has prosecuted the allegations set forth in the Notice.

1.5 No Admission

Commonwealth denies all factual and legal allegations contained in Leeman's Notice, and maintains that all of the products that it has distributed, sold, and/or offered for sale in the State of California, including the Products, have been, and are, in compliance with all federal, state, or local laws. Nothing in this Settlement Agreement shall be construed as an admission by Commonwealth of any fact, finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Commonwealth of any fact, finding, conclusion of law, issue of law or violation of law. However, this Section shall not diminish or otherwise affect Commonwealth'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 the date this Settlement Agreement is signed by all Parties.

2. INJUNCTIVE RELIEF: REFORMULATION STANDARD

As of the Effective Date, any Products that Commonwealth distributes for sale in California, or sells or offers for sale in California, shall be Reformulated Products. Under this Settlement Agreement, "Reformulated Products" are defined as Products containing concentrations of less than 0.1 percent (1000 parts per million) of DEHP, di-n-butyl ("DBP"), butyl benzyl phthalate ("BBP"), and Diisononyl phthalate ("DINP") in each accessible component when analyzed by a laboratory accredited by the State of California, a federal agency, NVLAP (National Volunteer Laboratory Accreditation Program), American Association for Lab Accreditation (A2LA), ANSI-ASQ National Accreditation Board (ANAB) – ACLASS brand (an ANAB company), International Accreditation Service, Inc. (IAS), Laboratory Accreditation Bureau (L-A-B), Perry Johnson Laboratory Accreditation, Inc. (PJLA),

International Laboratory Accreditation Cooperation (ILAC), or similar nationally recognized accrediting organization pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C, or equivalent methodologies utilized by federal or state agencies for the purpose of determining DEHP, DBP, BBP or DINP content in a solid substance. By entering into this Settlement Agreement, the Parties do not intend to expand or restrict any obligations or responsibilities that may be imposed upon Commonwealth by laws other than Proposition 65, nor do the Parties intend this Settlement Agreement to affect any defenses available to Commonwealth under laws other than Proposition 65.

3. MONETARY PAYMENTS

3.1 Penalties Pursuant to Health & Safety Code § 25249.7(b)

In settlement of all the claims alleged in the Notice and referred to in this Settlement Agreement, Commonwealth shall pay a civil penalty of \$2,500 within five business (5) days of the Effective Date in one check made payable to “Whitney Leeman, Client Trust Account.” Leeman will allocate the penalty payment in accordance with California Health & Safety Code § 25249.12(c)(1) & (d), with 75% of the funds being remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty being retained by Leeman.

3.2 Reimbursement of Fees and Costs

The Parties acknowledge that Leeman and her counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Leeman then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the reimbursement of Leeman’s attorneys’ fees and costs under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Commonwealth shall pay Leeman and her counsel \$21,000 for all work performed through the mutual execution of this Settlement

Agreement, including all fees and costs incurred as a result of investigating, bringing this matter to Commonwealth's attention, and negotiating a settlement in the public interest. Commonwealth shall tender a check payable to "The Chanler Group," within five (5) business days of the Effective Date.

3.3 Payment Procedures

All payments pursuant to Sections 3.1 and 3.2 shall be delivered to the following address:

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

4. RELEASE OF ALL CLAIMS

4.1 Leeman's Release of Commonwealth

This Settlement Agreement is a full, final, and binding resolution between Leeman and Commonwealth of any violation of Proposition 65 that was or could have been asserted by Leeman on behalf of herself as an individual and not on behalf of the public, her past and current agents, representatives, attorneys, successors and/or assignees, against Commonwealth, its parents, subsidiaries, and affiliated entities under common ownership; each entity to which any of them directly or indirectly has distributed or sold the Products including, but not limited to, downstream distributors, wholesalers, customers, franchisees, cooperative members, licensees and retailers; and the directors, officers, owners, employees, and attorney of any of them (the entities and individuals listed above in this Section 4.1 above are collectively referred to as the "Releasees") for alleged violations of Proposition 65 with respect to any DEHP in the Products distributed, sold and/or offered by Commonwealth for sale in the State of California before the Effective Date as set forth in the Notice.

In further consideration of the promises and agreements herein contained, Leeman, on behalf of herself as an individual and not on behalf of the public, her 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 that she may

have against Commonwealth and Releasees, including, without limitation, all actions, causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not limited to, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to DEHP, BBP, DBP or DINP in the Products sold or distributed by Commonwealth before the Effective Date.

Compliance with the terms of this Settlement Agreement by Commonwealth constitutes compliance with Proposition 65 with respect to any exposures to DEHP, BBP, DBP or DINP in the Products.

4.2 Commonwealth's Release of Leeman

Commonwealth waives any and all claims against Leeman, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Leeman and her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter and/or with respect to the Products.

5. 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 and/or DEHP, then Commonwealth may provide written notice to Leeman of the 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.

///
///
///
///
///
///
///

6. NOTICES

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

For Commonwealth:

Edward Layne, President
Commonwealth Soap & Toiletries, Inc.
537 Quequechan Street
Fall River, MA 02721

For Leeman:

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

With a copy on behalf of Commonwealth to:

Sarah Esmaili
Arnold & Porter LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111

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

7. COUNTERPARTS; FACSIMILE/PDF 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.

8. 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.

///

///

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

Leeman agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

10. MODIFICATION

This Settlement Agreement may be modified only by a 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: 7/16/15

Date: _____

By: Whitney Leeman
Whitney Leeman

By: _____
Edward Layne, President
Commonwealth Soap & Toiletries, Inc.

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

Leeman agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

10. MODIFICATION

This Settlement Agreement may be modified only by a 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.

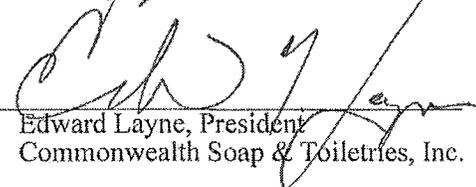
AGREED TO:

Date: _____

By: _____
Whitney Leeman

AGREED TO:

Date: 12/10/15 2015

By: 
Edward Layne, President
Commonwealth Soap & Toiletries, Inc.