

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 McKesson Corporation, with Held and McKesson Corporation 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.

1.2 General Allegations by Held

Held alleges that McKesson Corporation manufactures, sells, and/or distributes for sale in California, vinyl/PVC gloves containing diisononyl phthalate (“DINP”). DINP is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), as a chemical known to the State of California to cause cancer. Held alleges that McKesson failed to provide the health hazard warning allegedly required by Proposition 65 for exposures to DINP from vinyl/PVC gloves.

1.3 McKesson

McKesson Corporation employs ten or more persons. McKesson, together with its subsidiaries and affiliates under common ownership, is referred to herein as “McKesson.”

1.4 Product Description

The products that are covered by this Settlement Agreement are vinyl/PVC gloves containing DINP that are manufactured, sold or distributed for sale in California by McKesson (“Products”).

1.5 Notices of Violation

On or about January 30, 2015, Held served McKesson, and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“McKesson Notice”), alleging that McKesson violated Proposition 65 when it failed to warn its customers and consumers in California that its Products including, but not limited to, the *McKesson Vinyl Exam Gloves Powder-Free, #14-116, #(01)20612479102211, Lot 052514BU319272113*, expose users to DINP. To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the McKesson Notice.

Thereafter, on April 24, 2015, Held served Rite Aid Corporation, and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Rite Aid Notice”), alleging that Rite Aid Corporation violated Proposition 65 when it failed to warn its customers and consumers in California that the Products, including but not limited to the *Rite Aid Pharmacy First Aid Vinyl Gloves, Item 35915, UPC #0 11822 35915 3*, expose users to DINP. In June, 2015, Held was notified by counsel for defendant that McKesson is the manufacturer and distributor of the exemplar product on the Rite Aid Notice. To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Rite Aid Notice. The McKesson Notice and the Rite Aid Notice are referred to collectively hereinafter as the “Notices”.

1.6 No Admission

McKesson denies the material, factual, and legal allegations contained in the Notices 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, including Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by McKesson 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

McKesson of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by McKesson. However, this Section shall not diminish or otherwise affect McKesson's obligations, responsibilities, and duties under this Settlement Agreement.

1.7 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean December 4, 2015.

2. INJUNCTIVE RELIEF

2.1 Commitment to Provide Reformulated Products or Warning

Commencing on January 30, 2016, and continuing thereafter, any Products that McKesson offers for sale in California, sells in California, and/or distributes for sale in California shall either (1) qualify as "Reformulated Products" under Section 2.2 or (2) meet the warning requirements of Section 2.3.

2.2 Reformulated Products

For purposes of this Settlement Agreement, "Reformulated Products" are Products containing DINP in concentrations less than 0.1 percent (1,000 parts per million) when analyzed pursuant to one of the following test protocols: (1) U.S. Environmental Protection Agency testing methodologies 3580A and 8270C, or substantially equivalent methods (2) sample extraction using an ASTM protocol followed by gas chromatography-mass spectrometry, or substantially equivalent methods; or (3) any other methodology utilized by federal or state agencies for the purpose of determining phthalate content in a solid substance.

2.3 Product Warnings

For products requiring a warning under Section 2.1, the warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. McKesson shall

affix or print a warning upon the packaging or labeling of the Products. The warning under this Section 2.3 shall state one of the following:

WARNING: This product contains DINP, a chemical known to the State of California to cause cancer.

or

WARNING: This product contains a chemical known to the State of California to cause cancer.

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 Notices or referred to in this Settlement Agreement, McKesson agrees to pay \$17,000 in civil penalties. 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, and delivered to the address in Section 3.3 herein.

3.1.1 Initial Civil Penalty. Within ten (10) calendar days of the Effective Date, McKesson shall pay an initial civil penalty in the amount of \$5,000. McKesson will provide its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the amount of \$3,750; and (b) “Anthony E. Held, Ph.D., P.E., Client Trust Account” in the amount of \$1,250.

3.1.2 Final Civil Penalty. On or before January 30, 2016, McKesson shall pay a final civil penalty of \$12,000 in accordance with the formula set forth in Paragraph 3.1.1 above. The final civil penalty shall be waived in its entirety, however, if, no later than January 15, 2016, an officer of McKesson provides Held’s counsel with written certification that as of the date of the certification, all Products that McKesson offers for sale in California or sells in California are Reformulated Products, and that thereafter, all Products that McKesson offers for sale in California or sells in California in

the future will be Reformulated Products. The option to provide a written certification of reformulation in lieu of making the final civil penalty payment required by this Section is a material term, and time is of the essence. McKesson shall deliver its certificate, if any, to Held's counsel at the address provided in Section 3.3, below. In the event that McKesson does not timely certify its compliance or make the final civil penalty payment required by this Section, Held may seek relief under any available legal remedy. If successful, the Parties further agree that Held shall be entitled to his reasonable attorneys' fees and costs pursuant to general contract principles and Code of Civil Procedure section 1021.5.

3.2 Attorneys' Fees and Costs

The Parties acknowledge that Held and his 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. Held then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then 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, McKesson agrees to pay \$24,675 to Held and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of McKesson's management, and negotiating a settlement in the public interest. McKesson's payment shall be due within ten (10) calendar days of the Effective Date, and delivered to the address in Section 3.3 in the form of a check payable to "The Chanler Group."

3.3 Payment Address

All payments required by this Settlement Agreement 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. **CLAIMS COVERED AND RELEASED**

4.1 **Held's Release of McKesson**

This Settlement Agreement is a full, final and binding resolution between Held, as an individual and *not* on behalf of the public, and McKesson, of any violation of Proposition 65 that was or could have been asserted by Held, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees ("Releasers"), and Releasers hereby release any such claims against McKesson, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom any of them directly or indirectly distributes or sells Products including, but not limited to, downstream distributors, wholesalers, customers, retailers (including, but not limited, to Rite Aid Corporation), franchisees, cooperative members, licensors, and licensees, and their present and former agents, attorneys, representatives, shareholders, directors, officers, and employees, and their respective predecessors, successors, parents, affiliates, and subsidiaries (collectively, the "Releasees"), arising out of or related to the allegations in the McKesson Notice and Rite Aid Notice concerning the failure to warn about alleged exposures to DINP contained in Products manufactured, distributed, sold and/or offered for sale by McKesson prior to 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/or assignees, and *not* on behalf of the public, hereby covenants not to sue and waives any right to institute or participate in, directly or indirectly, any form of legal action against Releasees and releases all claims against Releasees that he may have, including, without limitation, all actions, causes of action in law and in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees

(collectively, the "Claims"), whether known or unknown, suspected or unsuspected, arising under Proposition 65 or any other statutory or common law with respect to alleged exposures to DINP contained in the Products manufactured, distributed, sold and/or offered for sale by McKesson before the Effective Date. Held acknowledges that he is familiar with 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 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Held, in his individual capacity only and not in his representative capacity, expressly waives and relinquishes any and all rights and benefits which he may have under, or which may conferred on him by the provisions of Civil Code § 1542 to the fullest extent that he may lawfully waive such rights or benefits pertaining the released matters.

The Parties agree that compliance by McKesson with the terms of this Settlement Agreement shall constitute compliance with Proposition 65 with respect to any DINP in the Products.

4.2 McKesson's Release of Held

McKesson, on its own behalf, and on behalf of 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 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, as to McKesson specifically as a result of a statutory exemption, or as to the Products and/or DINP, then McKesson may provide written notice to Held of any asserted change in the law, or its applicability to McKesson or the Products or DINP, and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, McKesson or 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:

McKesson

John Hammergren, President
McKesson Corporation
1 Post Street
San Francisco, CA 94104

Sarah Esmaili, Esq.
10th Floor
Three Embarcadero Center
San Francisco, CA 94111-4024

Held

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

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).11.

10. **DISPUTE RESOLUTION**

If either Party alleges at a future date that a violation of this settlement agreement has occurred, such Party shall provide written notice to the other Party. Prior to bringing any action to enforce any requirement of this deal, the Party alleging a violation shall provide the other Party with written notice of the grounds for such allegation together with the relevant supporting information. If Held alleges that any Product fails to comply with Section 2.2, Held's written notice shall include: (a) the approximate date the alleged violation was observed; (b) at least one location at which the Product was offered for sale; (c) a description of the Product giving rise to the alleged violation, including the name and address of the retail entity from which the sample was obtained and if available information that identifies the product lot; and (d) test data and reports that Held alleges to demonstrate a violation of Section 2.2. The Parties shall then meet and confer regarding the allegation in an attempt to resolve the matter informally. Should such attempts at informal resolution fail, the Party alleging a violation may file its lawsuit, or any other available remedy at law, seeking the proposed relief no less than 30 days after the Party alleging a violation of this agreement provided the other Party with written notice of the grounds for such allegation.

11. **MODIFICATION**

This Settlement Agreement may be modified only by written agreement 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:

APPROVED

Date: By Anthony Held at 10:41 am, Dec 04, 2015

By: Anthony E Held
ANTHONY E. HELD, PH.D., P.E.

AGREED TO:

Date: _____

By: _____
MCKESSON CORPORATION

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.

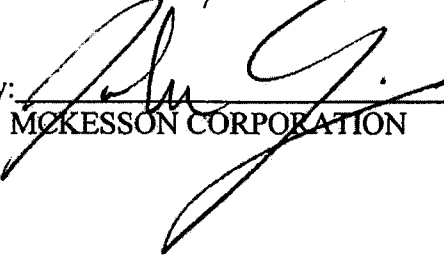
AGREED TO:

Date: _____

By: _____
ANTHONY E. HELD, PH.D., P.E.

AGREED TO:

Date: 12/4/2015

By:  _____
MCKESSON CORPORATION